NEW YORK STATE FACTORY INVESTIGATING COMMISSION

Minimum Wage Legislation

BY

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NEW YORK STATE
FACTORY INVESTIGATING COMMISSION

(Authorized by Chapter 561 of the Laws of 1911, Chapter 21 of the Laws of 1912, Chapter 137 of the Laws of 1913, and Chapter 110 of the Laws of 1914, to inquire into conditions generally under which manufacturing is carried on and into wages paid in the different industries of the State.)

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PREFACE.

Americans have long been accustomed to the legal protection of industrial employees in the matter of hours of labor, safety and sanitation in work places, the protection of the wage contract, and other similar legal safeguards. But the extension of legal regulation to cover the rate of wages paid to women and minors in private employments did not occur in this country until 1912, in Massachusetts. Since that year eight additional states have enacted minimum wage laws. The novelty of this kind of legislation and its widespread popularity have created a persistent demand for information on the subject.

It is the aim of the following report to present in brief and convenient form the main facts concerning the enactment and operation of minimum wage laws in this country as well as in foreign countries where the acts are similar in purpose to our American legislation on this subject.

It is not the aim of this report to discuss the economic aspects of the legal minimum wage. But included in one section are a few of the more important representative opinions concerning the actual operation and effect of minimum wage laws in those countries where they have been in operation sufficiently long to produce measurable results.

For the convenience of students of the subject there are also reprinted, as an appendix, the minimum wage laws of this country, of Victoria and of Great Britain. A select critical bibliography is added for the purpose of indicating a few of the most helpful and most readily available publications on the subject of the minimum wage.

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1. Introduction.

It was nearly a century ago when Mathew Carey, of Philadelphia, the first American investigator of woman's work and the consistent champion of the working woman, wrote that the wages of women were "barely sufficient to procure them a scant supply of the very commonest food and raiment." From that time to the present the relatively low wage of women and children has been a subject of constant agitation.

Many women enter the industrial field for short periods only, mere transients in the business world; comparatively few receive previous industrial training of any kind; and the majority look to marriage rather than to organization or efficiency as the way to a higher standard of living. Organization among working women, therefore, has been attended with peculiar difficulties. Working women have remained largely unskilled and unorganized and thousands of them have been employed at wages insufficient to "maintain them in health and to provide reasonable comfort."

The wages of public employees in many cities and states of this country have for several years been regulated by law and a legal minimum wage rate has frequently been established. In 1913, for example, the city of Spokane at a popular election established a minimum scale of $3 a day on public work and on January 2, 1914, this ordinance was sustained by the Supreme Court of the state of Washington. Among the states which have provided a wage rate of from $2 to $3 a day in either state or city work are California, Indiana, Maryland (for the city of Baltimore), Massachusetts, Nebraska and Nevada. But it has been the common belief that the regulation of wages of employees in private industries, involving as it does a different principle, could not legally be undertaken in this country. Such regulation

in private employments has been practised, however, under the legal systems in New Zealand since 1894, in Victoria since 1896, and in the United Kingdom since 1909, when the British Parliament made provision for the creation of minimum wage boards, or "trade boards" as they are there called.

The success of the British system, operating under conditions similar to those in our country, acted as a stimulus to the increasing number of persons interested in the subject in America; and in 1911 the legislature of Massachusetts authorized the creation of the first American Minimum Wage Commission to investigate conditions and report upon the advisability of establishing a permanent wage commission. In the same year bills were prepared and presented to the legislatures in Minnesota and Wisconsin; public hearings were held and great interest was displayed, but in both states the bill failed to pass that year. In 1912, however, the legislature of Massachusetts again pioneered the way and passed a bill creating the first permanent Minimum Wage Commission in this country. This was followed in 1913 by minimum wage laws in eight additional states: California, Oregon, Washington, Colorado, Utah, Nebraska, Minnesota and Wisconsin (1).

2. EARLY HISTORY OF THE MOVEMENT IN AMERICA.

Before the days of recent popular agitation for minimum wage legislation in America there had been sporadic attempts to establish minimum standards of hours and wages by law. Nebraska, for example, in February, 1909, introduced the following:

> * * * "for the purpose of protecting the American standard of living, and insure to all who labor that they shall have an opportunity to improve themselves, to educate their children, and to lay by a sum for old age, it is hereby provided, that the minimum wage in all stores, factories, packing houses and all work-shops of whatsoever kind for all adult labor, male or female, shall be twenty (20) cents per hour where labor is performed by the hour and where labor

(1) A complete directory of these commissions is printed on page 219 of Appendix III.

is performed by the week the minimum wage shall be nine ($9) dollars per week and for such wage by the week not more than ten hours of labor shall be performed in any one day; Provided, That such adult labor, male or female, employed by the week, may engage to labor over time for which they shall receive not less than twenty-five (25) cents per hour."

This Nebraska proposal received little serious attention, but after the passage of the British Trade Boards Act, and its successful operation during the years of 1910 and 1911, the demand for minimum wage laws became prominent in America and bills were drafted in many states.

Definition of a Living Wage. — In practically all of these early bills there was substantial agreement that a "living wage" should be the standard for the determination of wage-rates. But this standard was indefinite and was capable of a variety of interpretations. Was it to be interpreted to cover only the cost of necessary food, clothing and shelter — the slave-owner's standard as it was sometimes called? Or should it include Mrs. Gilman's bold request for "two rooms and a bath"? Still another standard recommended to the National Conference of Charities and Correction, by the Committee on Standards of Living and Labor, rested upon the following definition: "The monetary equivalent of a living wage varies according to local conditions, but must include enough to secure the elements of a normal standard of living; to provide for education and recreation; to care for immature members of the family; to maintain the family during periods of sickness; and to permit of reasonable saving for old age."

Few of the minimum wage measures, however, either in state legislatures or in Congress, went beyond a definition of a wage rate which would enable the workers to sustain themselves in health, to maintain the accepted moral standards, and, in a few cases, to provide in addition reasonable or necessary comfort and well-being.(1)

(1) For the standards established in the various enacted laws see p. 16.

From the beginning the majority of the states, except Massachusetts and Nebraska, in America, as in foreign countries, apparently accepted the principle that an industry which cannot pay its employees sufficient to maintain them in health and reasonable comfort is a parasitic industry which should not be tolerated by the community.

Methods of Wage Determination. — At least four methods were proposed for determining the "living wage": (a) by fixing rates in the law itself; (b) by investigations through the commissioner of labor; (c) by direct investigation of special commissions; and (d) by investigations through commissions with the aid of special wage boards.

(a) The first method suggested in several states was the establishment in the law itself of a fixed rate of wages per day or per week for each class of employees — the flat-rate method. These arbitrary proposals frequently suggested the fixing of hours of work also.

The only flat-rate bill which became law was the Utah measure, applying to females only and providing a minimum of $1.25 a day for experienced adults, $.90 for adult learners or apprentices, and $.75 for children under eighteen.

(b) A second method, less commonly advocated, proposed to grant to the State Commissioner of Labor power to determine the "living wage." In both Oregon and Wisconsin, for example, it was first suggested that the Labor Commissioner might be required to investigate the wages paid and the cost of living and, after public hearings, finally establish the minimum wage rate. But no state adopted this second method.

(c) The plan of the third method was modeled upon the public service commission laws and proposed a commission of three members who were to investigate and, after public hearing, fix wage rates without the aid of subordinate boards for each industry or class of industries. This was the plan proposed in the Pennsylvania measure which failed to pass and also in the Colorado measure, which was the only one following this plan to become a law.

(d) The fourth method of wage determination, and that which was finally embodied in the laws of all nine states except Colorado and Utah, provided for the creation of commissions with subordinate wage boards to investigate and determine, after public hearing, the minimum wage rate for employees in the different occupations. Minnesota and Massachusetts adopted this method in their earliest bills, and the Massachusetts law which was enacted in 1912, a year earlier than the Minnesota act, became the model for most of the others.

Bills providing for wage commissions were introduced or prepared for introduction in many of the remaining states of the forty-two holding legislative sessions in 1913.

Persons and Industries Included.— In the discussion of these bills the right to legislate on the subject of wages for women and children was generally accepted, but considerable discussion arose over the question of including men. Men were included in the acts of Australasia and of Great Britain, but supposed constitutional difficulties deterred many from recommending their inclusion in this country. The trade unions also were almost unanimous in their opposition to the inclusion of men.(1) And while many of the earlier bills applied to all employees, in no one of the enacted laws were adult men included. On this point a brief prepared for the law proposed in 1911 in Wisconsin said:

> "The fact that no American state regulates wages in private employment is not conclusive against regulating them, if new, oppressive, and unwholesome conditions exist which cannot be corrected except by minimum living wages. And this applies to men as well as women and children, for on this line of reasoning, in matters of health, the courts have gone even further in restricting the hours of men to eight per day than they have in permitting restriction of women to ten per day. The principle of classification is, therefore, not that of sex, or age, but of bargaining power in protecting themselves against conditions which it is the interest of the public that they should be protected against."

(1) For a recent official statement of the attitude of the American Federation of Labor on this point, see p. 82.

In considering which industries should be included there was less difference of opinion. In legislation regulating hours of work, special industries had been selected according to the degree of physical strain involved, and a few states attempted to follow in general these classifications. It was finally recognized, however, that a "living wage" should at least cover the cost of living in *any* industry and should not be made to depend upon the kind of work a person was engaged in. The laws were therefore made to apply to all occupations, except in Colorado, where an enumerated list is given.

Federal Proposals. — Not in state legislatures alone were minimum wage bills considered. Several measures were introduced in Congress applying to employees in the District of Columbia, to employees of the Federal government and also to those engaged in interstate commerce. One measure, intended to regulate wage rates for both male and female employees in the District of Columbia (H. R. 1803, introduced April 7, 1913, by Representative Lafferty), provided for a commission of three members at an annual salary of $3,000 each, with powers similar to those of the Massachusetts commission except that the bill did not provide for subsidiary wage boards. Another bill (H. R. 4901, introduced May 8, 1913, by Representative Vare) applied to employees of the Federal government and required a minimum rate of $2 per day for all adult male employees, and $1.50 for all adult female employees. It also sought to prohibit the employment of all persons under the age of fourteen years.

At least two measures have been presented under which wage rates would be regulated for employees in interstate commerce. One was a flat-rate measure (S. 579, introduced April 9, 1913, by Senator Chilton), providing for a wage rate of not less than $9 a week for all females employed in interstate commerce, or in the production and manufacture of articles for interstate commerce. Hours of work were to be limited to eight a day and six days a week and no female under fifteen was to be employed. Penalties for violations were provided as well as provision for recovery of unpaid wages.

The second interstate commerce measure provided for a National Wage Commission consisting of one "wage commissioner" appointed for four years in each congressional district to whom complaints might be made if wages were deemed to be "of a nature insufficient, inequitable, or unjust in proportion to the work done and services rendered to the employer, or shall be insufficient and are not sufficient upon which the said person may live and maintain an existence in harmony with the spirit and organization of citizenship in America." Penalties were provided for violations, but no specific wage standard was given in the bill (S. 1925, introduced May 14, 1913, by Senator Lewis). No minimum wage measure for workers in private employments has at this writing been passed by Congress.

3. Analysis of American Laws.

The first minimum wage law for employees in private industries in America was enacted in Massachusetts in 1912. This law applied to females and minors under eighteen years of age and provided for an administrative commission of three members who, with the aid of subordinate wage boards for each industry, were to establish minimum wage rates for any industry which the commission found to be paying less than a living wage.

In the following year, 1913, as already indicated, minimum wage laws were enacted in eight additional states. Minnesota and Wisconsin, where bills had been introduced in 1911, enacted laws following the main administrative features of the Massachusetts act, although the administration of the Wisconsin measure was placed with the existing Industrial Commission and was made to conform to procedure under the commission law of which it was a part.

In Oregon, where a "social survey" had been made during the preceding year, the legislature in 1913 provided the legal machinery for the establishment of minimum wage rates by creating the State Industrial Welfare Commission. With very slight modifications, and under the same name, California and Washington in the same year created similar state bodies. Meanwhile, following a brief official investigation, the legislature in

Nebraska passed a bill similar to the Massachusetts law of 1912, and Colorado and Utah, caught up on the wave of popular sentiment, brought the number of states having minimum wage laws to nine before the end of 1913.

In addition to the minimum wage laws passed in 1913, several states created commissions to investigate the subject with a view to recommending legislation. In Connecticut the Commissioner of Labor was authorized to continue the investigation of woman and child labor in that state (begun by the Connecticut Industrial Commission of 1912) while the Industrial Commission of Ohio was required to make a special inquiry into the work of women and children in mercantile establishments. In Michigan and Indiana commissions were created to study the subject of woman's work, and in New York the Factory Investigating Commission was continued and authorized to investigate wage conditions.

Titles. — In naming their administrative bodies the nine minimum wage states have chosen three different titles. The three Pacific coast states, California, Oregon and Washington, have given to their commissions broader powers than that of fixing wage rates alone and have therefore selected the title, "Industrial Welfare Commission"; Massachusetts, Minnesota and Nebraska, where power has been given to fix wage rates only, have chosen the title, "Minimum Wage Commission"; while in Colorado the name "State Wage Board" was selected. In the two remaining states the minimum wage laws are administered by existing bodies: In Wisconsin by the Industrial Commission, and in Utah by the Commissioner of Immigration, Labor and Statistics who has power to enforce the flat-rate minimum named in the statute.(1)

Appointments, Organization, Appropriations. — The commissions or boards are composed of three members in all states except California and Washington, where five members were appointed, and in Nebraska where four were authorized. Members were appointed by the governors for terms of two or three years except

(1) See statement of the Commissioner, p. 42.

in Wisconsin, where the term of office is six years and the consent of the Senate is also necessary. Employers and employees must be represented on the commissions in Colorado, Minnesota, and Oregon, and in all states except Oregon, Washington and Wisconsin at least one member must be a woman. The Commissioner of Labor was specifically designated as a member in the laws of Washington, Nebraska and Minnesota. In no case is an annual salary provided for members, but necessary expenses are allowed, and in California and Massachusetts $10 a day is authorized in addition for actual service. Secretaries may be employed, and their salaries are to be determined by the commissions in all states except in Colorado where the law specifies $1,200 a year and in Minnesota where it is fixed at $1,800. The appropriations for the first year varied from nothing in Nebraska to $15,000 in California. Colorado, Minnesota and Washington appropriated $5,000 each; Massachusetts authorized $7,000 for 1913; Oregon appropriated $3,500; while Utah and Wisconsin made no specific appropriation since the minimum wage work is carried on by existing official departments.

Jurisdiction.— The jurisdiction of the commissions extends to all trades or occupations, except in Colorado, where the law applies only to mercantile and manufacturing establishments, laundries, hotels, restaurants, and telephone and telegraph offices. In Massachusetts, Nebraska and Colorado, the commissions are directed to investigate those industries in which they believe that wages paid are less than a living wage. Investigations are mandatory in all states except Oregon and Minnesota and they are mandatory in the latter state upon the request of one hundred persons in any occupation where women and children are employed. The laws apply to females and to male minors under eighteen in all states except Minnesota and Wisconsin where the age limit for males is twenty-one, and in Utah where the act applies only to females. The commissions have the power to determine minimum wage rates in all states; wage rates and *conditions of work* in Washington; and wage rates and *conditions and hours of work* in California and Oregon (and also in Wisconsin under a separate law).

Initial Investigation. — The initial investigation rests in all cases with the commission itself. Employers are required to keep records of the names and addresses of female and minor employees, of wages paid and hours of work, and to furnish information required by a commission. The commissions are given power to subpoena witnesses, administer oaths and examine books or records, and in California and Wisconsin a member may enter premises. In most states the Commissioner of Labor is required to cooperate in furnishing information. Rules of procedure are non-technical and are determined by the commissions themselves.

In California and Oregon the commissions may make recommendations for women and minors upon:

(1) Minimum wage rates;

(2) The number of hours of work consistent with health and welfare (not exceeding the maximum number fixed by statute law); and

(3) Standard conditions of work demanded for the protection of health and welfare.

In Washington the commission has authority only over wages and conditions of work. In Wisconsin, under separate acts, the statute law regulating hours of work for women applies only where hours have not been determined by the Industrial Commission itself after public hearings.(1) In California the commission is specifically forbidden to act as a board of arbitration during a strike or lockout.

In determining minimum wage rates the definitions as given in the laws are: In California "the necessary cost of proper living and to maintain the health and welfare"; in Colorado, "to supply the necessary cost of living, maintain them in health, and supply the necessary comforts of life", and the commission must also consider the "financial condition of the business"; in Massachusetts and Nebraska, the "necessary cost of living and to maintain the worker in health", and also the "financial condition of the occupation"; in Minnesota "to maintain the worker in health

(1) The Ohio Industrial Commission has similar power over hours of labor for men as well as for women and children.

and to supply him with the necessary comforts and conditions of reasonable life"; in Oregon and Washington the "necessary cost of living and to maintain the workers in health"; and in Wisconsin the term living wage is defined as a wage "sufficient to maintain himself or herself under conditions consistent with his or her welfare", and "welfare" is defined to include "reasonable comfort, reasonable physical well-being, decency, and moral well-being".

If a commission finds after investigation that wages paid are not sufficient to maintain the specified standard of living it may after a public hearing determine upon a minimum wage rate or it may establish a subordinate wage board, or, as it is called in Oregon and Washington, a "conference". These subordinate boards are mandatory only in Wisconsin, and in Massachusetts and Nebraska in so far as wage rates for women are concerned. In Colorado alone among the eight states having boards or commissions, there is no provision for a subordinate wage board, the state board itself determining minimum rates.

Subordinate Wage Boards. — On the subordinate wage boards in all states but Wisconsin, employers and employees must be represented by an equal number of members. In California a subordinate wage board must be composed of an equal number of each of these two groups with a representative of the commission; in Massachusetts, of at least six representatives of each, with one or more members from the public, but not to exceed one-half of the representatives of either of the other parties; in Minnesota there must be from three to ten of each and one or more representatives of the public, but not to exceed the number of either group of representatives, and at least one-fifth of the entire board membership must be women; in Nebraska, three representatives of employers and of employees including the members of the commission and three representatives of the public; in Oregon three of each with one or more of the commissioners; in Washington an equal number of each and one or more representatives of the public as in Minnesota; in Wisconsin the advisory wage board must be constituted "so as to fairly represent employers, employees and the public".

The method of selecting members of subordinate wage boards is left open in all states except Wisconsin where the representatives are to be appointed by the Industrial Commission. In all other states the commissions merely make rules and regulations governing the selection of representatives, although in Minnesota there is the additional provision that where practicable the representatives of the employers and employees are to be elected. Procedure under the subordinate wage boards is informal and usually determined by the commissions. The members are not paid except in California, where they receive $5 a day and expenses, and in Massachusetts and Nebraska, where they are paid at the same rate as jurors (in Nebraska, "jurors in the district court"), including necessary expenses.

Operation of Subordinate Wage Boards. — Upon the establishment of a wage board for any industry the results of the initial investigations of the parent commission are first transmitted to the subordinate body which may at once conclude as to minimum wage rates, or may demand further investigations. Additional results are to be again laid before the board for consideration and for determination as to what should be the minimum wage rate. After agreements have been reached by the subordinate board as to wages, hours or conditions of work, a report with recommendations must be made to the commission. The recommendations, or a part of them, may be accepted by the commission or they may be referred back to the wage board for further investigation, or a new wage board may be convened.

As soon as the report of the wage board has been accepted by the commission a public hearing must be held, preceded in California and Massachusetts by fourteen days notice, in Oregon by four weeks, and in Colorado and Nebraska by thirty days; if after public consideration no change is deemed necessary in the recommendations they are promulgated as orders which become effective after thirty days in Minnesota, Nebraska and Wisconsin, and after sixty days in California, Colorado, Oregon and Washington. But in California no order may be issued before April 1, 1914. In Massachusetts the names of employers refusing to accept the commission's findings may be published imme-

diately. The commissions may in all states, except Wisconsin, determine minimum wage rates for minors without the aid of subordinate wage boards.

Copies of orders issued by a commission must in all cases be forwarded to the employer concerned in the wage determination. In most of the states the employer is required to post in a conspicuous place where women or minors are employed, copies of all orders issued; and in California copies of orders must also be filed with the Commissioner of Labor.

Application of Wage Determinations. — Minimum wage rates may apply either to time or to piece work, and in Minnesota orders may be issued for a given locality or area. In Wisconsin the Industrial Commission has power to classify industries for the purpose of adjusting wage rates.

The commission in each state is authorized to make special exemptions for defectives — the old, crippled or those otherwise physically incapacitated. This power applies only to women, however, except in Wisconsin, where minors are also included. In California exemption licenses for defectives may be renewed every six months. Special licenses may also be issued to learners and apprentices in all states except California and Colorado, and in Oregon and Washington a time limit may be fixed for the licenses of learners and apprentices.

In Wisconsin any minor in an occupation for which a living wage has been established and which is a "trade industry" involving mechanical skill and training, must, if he has acquired no trade, be indentured in a "trade industry" as determined by the Industrial Commission and as provided for in the statutes. Any minor in Wisconsin not in a trade industry and who has no trade, but is working in an industry for which a wage rate has been established, is subject to the same regulations as are minors between the ages of fourteen and sixteen under the child labor law (an eight hour day, a six day week, and night work prohibited between six at night and seven in the morning).

Rehearings. — If any person objects to the rulings of the commission, rehearings may be granted upon the petition of any per-

son from either side, except in Colorado, where appeals lie direct to the courts. In Minnesota a rehearing is mandatory upon the request of one-fourth of the employers or employees in any occupation in which a wage determination has been made. In Wisconsin no special provision has been made for rehearings but procedure would be the same as in the case of other rehearings under the Industrial Commission.

Enforcement and Penalties. — The commissions, except in Colorado, are specifically authorized to enforce all wage rulings. In California and Washington no power is given to enforce rulings concerning hours and conditions of work, these two subjects falling directly within the authority of the State Labor Commissioner. Penalties are provided in all states for an employer who fails to pay the minimum wage or who violates any part of the act or any of the commissions' rulings, and also for an employer who discriminates against any employee who has testified before the commission, or who is about to testify or who the employer believes is about to testify.(1) These penalties, which are given in detail in the table on page 24, range from $10 to $100 for a violation of the act, and from $25 to $1,000 for discrimination against any employee testifying before the commission. An employee who has not been paid the required minimum wage rate and who is entitled to it may recover in a civil action the unpaid balance except in Massachusetts and Nebraska, where the enforcement of the determinations establishing a minimum wage rate differs from that in any of the other states, since in these two instances alone recommendations cannot be issued as orders. In these two states, when a minimum wage rate is agreed upon the commission must publish its findings (after thirty days in Nebraska) in a given number of papers throughout the state. The publication also, in a specified number of newspapers, of the names of those employers who refuse to pay the minimum rate agreed upon is mandatory in Nebraska but merely optional in Massachusetts. No publisher is liable to any action for damages, except in case of wilful misrepresentation. Any publisher in

(1) See proposed amendment to this section of the Massachusetts Act, p. 35.

either state refusing to print the names of such employers is subject to a fine of $100.

In these two states, also, an employer may appeal to the court to have the commissions' rulings in his particular case set aside, by filing a declaration under oath, in Nebraska that "compliance with such decree would endanger the prosperity of the business", and in Massachusetts that compliance "would render it impossible for him to conduct his business at a reasonable profit". In Nebraska court review is authorized under the rules of equity procedure and if the court sustains the plaintiff it may issue an order revoking the commission's rulings. In Massachusetts the appeal is authorized in the supreme judicial court or the superior court and the burden of proof is placed upon the complainant. If, in Massachusetts, the court sustains the complainant it may issue an order restraining the commission from publishing the name of the employer paying less than the minimum agreed upon, but the court's order cannot apply to any employer except the one entering complaint.

Court Review. — In Minnesota, alone, no special provision for court review is made. In all other states except Utah procedure and the subjects for review are definitely specified. In Oregon and Washington, only questions of law may be reviewed (1); in addition, in California, the rulings of the commission may be set aside only if they were secured by fraud or if the commission acted without its powers; in Colorado and Wisconsin rulings may be set aside if unreasonable or unlawful; in Massachusetts if compliance would prevent a "reasonable profit", or in Nebraska if compliance would be "likely to endanger the prosperity of the business"; cases may be brought against the commission only in a superior court (see table on page 27). In most instances the facts found by the commissions are presumed to be reasonable and lawful and any new evidence must be referred back to the commission for consideration.

(1) See court decision in case of Frank C. Stettler v. Edwin V. O'Hara, Bertha Moores and Amedee M. Smith, constituting the Industrial Welfare Commission of the State of Oregon, p. 103.

COMPARATIVE TABLE OF AMERICAN MINIMUM WAGE LAWS.

MAIN PROVISIONS OF MINIMUM WAGE LAWS IN THE UNITED STATES.

SUBSTANTIVE F ATURES.

STATE.	INDUSTRIES COVERED.	EMPLOYEES COVERED.
CALIFORNIA: C. 324, Laws 1913. In effect, August 10, 1913.	All.	Women, and minors under 18.
COLORADO: C. 110, Laws 1913. In effect, August 12, 1913.	Mercantile, manufacturing, laundry, hotel, restaurant, telephone or telegraph.	Same as California.
MASSACHUSETTS: C. 706, Laws 1912. In effect, July 1, 1913. Am'd Cs. 330, 673, L. 1913. In effect, March 21, July 1, 1913.	All.	Same as California.
MINNESOTA: C. 547, Laws 1913. In effect, June 26, 1913.	All.	Women, and minors under 21.
NEBRASKA: C. 211, Laws 1913. In effect, July 17, 1913.	All.	Same as California.
OREGON: C. 62, Laws 1913. In effect, June 2, 1913.	All.	Same as California.
UTAH: C. 63, Laws 1913. In effect, May 13, 1913.	All.	"Females".
WASHINGTON: C. 174, Laws 1913. In effect, June 13, 1913.	All.	Same as California.
WISCONSIN: C. 712, Laws 1913. In effect, August 1, 1913.	All.	Women and minors.

MAIN PROVISIONS OF MINIMUM WAGE LAWS IN THE UNITED STATES — (*Continued*).

SUBSTANTIVE FEATURES — *Continued.*

STATE.	PRINCIPAL OF WAGE DETERMINATION.	EXCEPTIONS FOR DEFECTIVES.	EXCEPTIONS FOR LEARNERS.
CALIFORNIA.	"Necessary cost of proper living and to maintain the health and welfare".	Special license, women only, renewable semi-annually.	None.
COLORADO.	"Necessary cost of living, maintain them in health, and supply the necessary comforts of life" and "financial condition of the business".	Special license, women only.	None.
MASSACHUSETTS.	"Necessary cost of living and to maintain the worker in health" and "financial condition of the occupation".	Same as Colorado.	Special rates for learners and apprentices.
MINNESOTA.	"Wages sufficient to maintain the worker in health and supply him with the necessary comforts and conditions of reasonable life".	Special license, women only, limited to 10 per cent of employees in any establishment.	Same as Massachusetts.
NEBRASKA.	Same as Massachusetts.	Same as Colorado.	Same as Massachusetts.
OREGON.	"Necessary cost of living and to maintain the workers in health".	Same as Colorado.	Same as Massachusetts.
UTAH.	Experienced adults, $1.25 a day, fixed by act.	None.	Females under 18, 75 cents a day; adult learners and apprentices, 90 cents a day, fixed by act.
WASHINGTON.	Same as Oregon.	Same as Colorado.	Special license, with time limit fixed by commission.
WISCONSIN.	"A wage sufficient to maintain himself or herself under conditions consistent with his or her welfare".	Special license, women and minors.	Minors in a "trade industry" must be indentured.

MAIN PROVISIONS OF MINIMUM WAGE LAWS IN THE UNITED STATES — (*Continued*).

SUBSTANTIVE FEATURES — (*Concluded.*)

STATE.	PENALTY: 1. FOR VIOLATION. 2. FOR DISCRIMINATION.[1]	APPROPRIATION.
CALIFORNIA.	1. Minimum, $50, imprisonment for 30 days, or both; (and employee may sue for wage balance). Applies to wage rulings only. 2. A misdemeanor.	$15,000 annually.
COLORADO.	1. Maximum, $100, imprisonment for 3 months, or both; (and employee may sue for wage balance). 2. For each offense, $25.	$5,000 annually
MASSACHUSETTS.	1. Commission may publish name in newspapers ($100 for newspapers refusing to publish). 2. For each offense, $200–$1,000.	$7,000 for 1913.
MINNESOTA.	1, 2. For each offense, $10–$50, or imprisonment for 10 to 60 days; (and employee may sue for wage balance).	$5,000 annually.
NEBRASKA.	1. Commission must publish names in newspapers ($100 for newspapers refusing to publish). 2. For each offense, $25.	None.
OREGON.	1. $25–$100, imprisonment 10 days to 3 months, or both; (and employee may sue for wage balance). 2. $25–$100.	$3,500 annually.
UTAH.	1. A misdemeanor.	No special provision.
WASHINGTON.	1. $25–$100; (and employee may sue for wage balance). 2. For each offense, $25-$100.	$5,000 annually.
WISCONSIN.	1. For each offense, $10–$100. 2. For each offense, $25.	General for Industrial Commission.

[1] The penalty for discrimination is for the employer who "discharges or in any way discriminates against any employee because such employee has testified, or is about to testify or because the employer believes that the employee may testify, in any investigation or proceeding" relative to the enforcement of the act.

Main Provisions of Minimum Wage Laws in the United States — (*Continued*).

ADMINISTRATION — CHIEF ADMINISTRATIVE BODY.

State.	Name.	Personnel.
California.	Industrial Welfare Commission.	5 persons, 1 a woman. (May engage secretary and necessary assistants).
Colorado.	State Wage Board.	3 persons: 1 labor representative, 1 employer, 1 woman. (May engage secretray).
Massachusetts.	Minimum Wage Commission.	3 persons, 1 a woman. (May engage secretary).
Minnesota.	Minimum Wage Commission.	3 persons: commissioner of labor, 1 employer of women, 1 woman secretary.
Nebraska.	Minimum Wage Commission.	4 persons: governor, deputy commissioner of labor, professor of political science in state university, 1 citizen of state (1 a woman).
Oregon.	Industrial Welfare Commission.	3 persons: 1 representative of employing class, 1 of employed class, 1 of public. (May engage secretary).
Utah.	Commissioner of Immigration, Labor and Statistics.	
Washington.	Industrial Welfare Commission.	5 persons: commissioner of labor, 4 disinterested citizens. (May engage secretary).
Wisconsin.	Industrial Commission.	3 persons. (May engage assistants).

MAIN PROVISIONS OF MINIMUM WAGE LAWS IN THE UNITED STATES — (*Continued*).

ADMINISTRATION — CHIEF ADMINISTRATIVE BODY — (*Continued*).

STATE.	APPOINTMENT AND COMPENSATION.	INVESTIGATION.	
		INITIATION. 1. ORIGINAL INQUIRY. 2. REHEARINGS.	POWERS.
CALIFORNIA.	By governor, for 4 years. $10 a day and expenses.	1. By commission, or upon petition. 2. By commission, or upon petition of employers or employees.	Subpoena witnesses, administer oaths, examine books, enter premises.
COLORADO.	By governor, for 2 years. Expenses up to $1,300 annually; secretary, $1,200 annually.	1. By commission. 2. None provided.	Subpoena witnesses, administer oaths, examine books.
MASSACHUSETTS.	By governor, for 3 years. $10 a day and expenses.	1. Same as Colorado. 2. Upon petition of employers or employees.	Same as Colorado.
MINNESOTA.	Same as Colorado. Expenses; secretary, $1,800 annually.	1. By commission, or at request of 100 employees. 2. By commission, or at request of one-fourth of the employers or employees in an occupation.	Same as Colorado.
NEBRASKA.	Same as Colorado. Expenses.	1. Same as Colorado. 2. Same as Massachusetts.	Same as Colorado.
OREGON.	Same as Massachusetts. Expenses.	1. Same as Colorado. 2. None provided.	Same as Colorado.
UTAH.	By governor, with consent of senate, for 2 years. $1,800 and $500 expenses, annually.		
WASHINGTON.	Same as California. Expenses.	1. Same as Colorado. 2 Same as Massachusetts.	Same as Colorado.
WISCONSIN.	By governor, with consent of senate, for 6 years. $5,000 annually, and expenses.	1. By commission, or upon complaint. 2. No special provisions.	Same as Californi a.

Main Provisions of Minimum Wage Laws in the United States — (*Continued*).

ADMINISTRATION — CHIEF ADMINISTRATIVE BODY — (*Concluded*).

State.	Authority: 1. To Determine. 2. To Enforce.	Court Review: 1. Court. 2. Grounds for Setting Aside Ruling.
California.	1. Minimum wages, maximum hours, and conditions of labor.[2] 2. Wage rulings, upon complaint.	1. Superior court, on questions of law only. 2. If procured by fraud or if the commission acted outside its powers.
Colorado.	1. Minimum wages.	1. District court on questions of law only. 2. If unlawful or unreasonable.
Massachusetts.	1. Same as Colorado. 2. Its rulings (see "Penalty").	1. Supreme judicial court, or superior court. 2. If compliance would prevent a "reasonable profit".
Minnesota.	1. Same as Colorado. 2. The act.	None provided.
Nebraska.	1. Same as Colorado. 2. Same as Massachusetts.	1. District court. 2. If compliance "is likely to endanger the prosperity of the business".
Oregon.	1. Same as California. 2. All rulings.	1. Circuit court, on questions of law only.
Utah.	1. None. 2. Same as Minnesota.	None.
Washington.	1. Minimum wages and conditions of labor. 2. Same as California.	1. Superior court, on questions of law only.
Wisconsin.	1. Minimum wages, maximum hours (C. 381, L. 1913), and conditions of labor (C. 485, L. 1911). 2. Wage rulings, upon complaint, other rulings directly.	1. Circuit court, on questions of law only. 2. If unlawful or unreasonable.

[2] The California law is the only one which forbids the commission to act as a board of arbitration during a strike or lockout.

MAIN PROVISIONS OF MINIMUM WAGE LAWS IN THE UNITED STATES — (*Concluded*).

ADMINISTRATION — SUBORDINATE BODY.[3]

STATE.	NAME.	PERSONNEL.	APPOINTMENT AND COMPENSATION.
CALIFORNIA.	Wage board.	Equal number representatives of employers and employees, and a representative of the commission.	By commission's rules (optional). $5 a day and expenses.
COLORADO.	None.		
MASSACHUSETTS.	Wage board.	At least 6 representatives of employers, 6 of employees, and one or more representatives of public.	By commission's rules (only in case of women, then mandatory). Same rate as jurors.
MINNESOTA.	Advisory board.	3–10 representatives of employers, equal number of employees, and 1 or more representatives of public; at least one-fifth women.	By commission's rules election when practicable; (optional). None.
NEBRASKA.	Wage board.	At least 3 representatives of employers, 3 of employees, and the 3 appointed members of the commission.	By commission (only in case of women, then mandatory) Same as jurors in district court.
OREGON.	Conference.	Not more than 3 representatives of employers, 3 of employees, 3 of public and 1 or more commissioners.	By commission (only in case of women, then optional). None.
UTAH.	None.		
WASHINGTON.	Conference.	Equal number of representatives of employers and employees, and 1 or more representatives of public.	By commission's rules (only in case of women, then optional). None.
WISCONSIN.	Advisory wage board.	"So as fairly to represent employers, employees and the public".	By commission (mandatory). None.

[3] In all cases the functions of the subordinate body are advisory only, its operations are confined to the industry in question, and its rules of procedure are determined by the commission.

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4. Operation of American Laws.

Although the majority of the minimum wage laws were in effect by the summer of 1913, but little progress was made that year in any state except Oregon, where minimum wage rates for certain classes of industry were established as reprinted below. In Colorado and Nebraska, as late as February, 1914, the commissions had not yet been appointed. In all other states, however, developments are so rapidly taking place that at this time it is safe only to make a preliminary statement concerning methods and results.

Commissions in America began work along two different lines. In one case the English and colonial method was followed, whereby wage boards were created for each particular industry. In the other case, one entire class of industries, as manufacturing or mercantile establishments, was taken up as a whole. This latter method was the one followed in Oregon, Washington and Minnesota, while the former method was followed in Massachusetts and California. In Wisconsin the Industrial Commission was given power to classify occupations and to appoint advisory boards for each class when deemed necessary by the commission.

Oregon.

The Oregon Industrial Welfare Commission began its work on June 3, 1913. It was the first of the state commissions to organize. Previous to the enactment of the minimum wage law an intensive investigation had been made into conditions of work and wages of women and minors in Oregon. The commission was prepared almost immediately, therefore, for wage conferences in mercantile and manufacturing industries, and on August 5 issued the following first American minimum wage order to take effect October 4, 1913:

Order No. 1.

1. No girl under the age of eighteen years shall be employed in any manufacturing or mercantile establishment, millinery, dressmaking or hair dressing shop, laundry, hotel or restaurant, telephone or telegraph establishment or office

in the State of Oregon more than eight hours and twenty minutes during any one day or more than fifty (50) hours in any one week.

2. No girl under the age of eighteen shall be employed in any one of the above named occupations after the hour of six o'clock P. M.

3. A minimum wage of one dollar ($1) a day shall be established for girls between the ages of sixteen (16) and eighteen (18) years, working in the above mentioned occupations except as otherwise arranged by the Commission in the cases of apprentices and learners.

On September 10 the Commission made the following second order in regard to women in manufacturing establishments, to take effect November 10, 1913:

Order No. 2.

No person, firm, corporation or association owning or operating any manufacturing establishment in the city of Portland, Oregon, shall employ any women in said establishment for more than nine hours a day, or fifty-four hours a week; or fix, allow or permit for any woman employee in said establishment a noon lunch period of less than forty-five minutes in length; or employ any experienced, adult, woman worker, paid by time rates of payment, in said establishment at a weekly wage of less than $8.64, any lesser amount being hereby declared inadequate to supply the necessary cost of living to such women factory workers, and to maintain them in health.

The third order, issued September 23, applies to women in mercantile establishments, and became effective November 23, 1913:

Order No. 3.

No person, firm or corporation owning or conducting any mercantile establishment, in the city of Portland, Oregon, shall pay to any experienced, adult woman worker a wage

less than nine dollars and twenty-five cents ($9.25) a week. Nor shall any such person, firm, or corporation owning or conducting any mercantile establishment in the city of Portland, Oregon, employ any woman worker in such mercantile establishment more than eight (8) hours and twenty (20) minutes in any day, and fifty (50) hours in any week, or after the hour of six (6) o'clock in the afternoon of any day.

It was later found necessary to amend Order No. 3 by extending the closing hour from 6 p. m. to 8 p. m. for six months after November 23, but five of the larger department stores complied with the six o'clock closing rule after January 1, 1914. In view of the fact that these orders established a working day of eight hours and twenty minutes for minors in manufacturing establishments while permitting a nine hour day for adult females, the Commission issued the following notice:

Portland, Oregon, *September* 17, 1913.

Notice is hereby given that in establishments where minors are working together with adults, and the enforcement of an eight hour and twenty minute maximum day for female minors would cause them to be dismissed, this Commission will receive application from the establishment for permit allowing female minors to work the same hours as the adults in the establishment in which minors are employed. Such application should show that such hours are not excessive in view of the work required.

Industrial Welfare Commission.

The form of permit issued by the Commission is as follows:

Portland, Oregon....., 19...

The Industrial Welfare Commission of the State of Oregon hereby permits the employment of female minors at..... ....., located at....., Oregon, for more than
(Name of Establishment)
eight hours and twenty minutes a day, but not to exceed nine hours a day.

This permit may be cancelled at any time by the Commission should it be shown that nine hours of employment a day is detrimental to the health of such female minor employees in view of the character of the work they are called upon to perform.

....., *Secretary.*

In the meantime wage conferences had been held and information had been secured on the subjects of the six-day week, night work, and the length of time a woman worker may be deemed to be inexperienced — the period of apprenticeship or of learning before she is entitled to receive the minimum wage. On December 3d and 9th, respectively, 1913, the following orders were issued:

Order No. 4.

(1) No person, firm, corporation or association shall employ any experienced, adult woman in any office, or at office work, in the city of Portland for more than fifty-one hours in any week, nor at a wage rate of less than forty dollars ($40.00) a month.

(2) The following classes of work are included under this ruling as office work:

Stenographers, bookkeepers, typists, billing clerks, filing clerks, cashiers (moving picture theatres, restaurants, amusement parks, ice cream stands, etc.), checkers, invoicers, comptometer operators, auditors, and all kinds of clerical work.

Said Order shall become effective from and after February 2, 1914.

Order No. 5.

(1) No person, firm or corporation shall employ any experienced, adult woman in any industry in the State of Oregon, paid by time rate of payment, at a weekly wage rate of less than eight dollars and twenty-five cents ($8.25) a week, any lesser amount being hereby declared inadequate to supply the necessary cost of living to such women workers and to maintain them in health.

(2) Nor shall any such person, firm or corporation employ women in any industry in the State of Oregon for more than fifty-four (54) hours a week.

(3) Nor shall any such person, firm or corporation pay inexperienced, adult women workers employed by time rate

of payment, at a rate of wages less than six dollars ($6.00) a week. And the maximum length of time such workers may be considered inexperienced in any industry shall not exceed one year.

(4) No person, firm or corporation owning or conducting any mercantile, manufacturing or laundry establishment in the State of Oregon shall employ women workers in such establishment later than the hour of eight-thirty (8:30) o'clock P. M. of any day. This hour of dismissal does not apply to telephone and telegraph companies, confectionery establishments, restaurants and hotels.

Said Order shall become effective from and after February 7, 1914.

The Oregon law was the first to be carried into the courts and the favorable decision of the Supreme Court will be found on p. 103.

California.

The California law fixed April 1, 1914, as the first date upon which determinations might become effective, but investigations were undertaken earlier by industries as in Massachusetts, and preliminary conferences were held in order to interest and inform the employers. In California the Commission has authority to fix maximum hours, minimum wages and conditions of work. The industries first selected for standardizing were laundries, retail stores, confectionery manufacture, and the canneries.

Massachusetts.

In January, 1912, the Massachusetts Commission, authorized the previous year to study the wages of women and minors and to advise as to the need of minimum wage legislation, made a report on investigations of conditions in the confectionery industry, retail stores and laundries. When the permanent wage commission began its work on July 1, 1913, it undertook investigations into the small brush-making industry, and into the larger corset and confectionery industries.

The brush-making investigation was the first to be completed and a wage board was formed. In arranging for this first wage board the Commission said: "It was the policy of the Commission to appoint the members of the wage board in such a way that it might be as widely representative as possible. To this end, every manufacturer in the state was asked to make nominations. Nominations were also called for from the workers and efforts were made to secure representatives from the different groups and nationalities among them. The invitations to make nominations were responded to in two cases by the manufacturers, in each of which appointments followed, and in three cases by the workers, as a result of which two appointments were made. Although the manufacturers failed to make a sufficient number of nominations to constitute their representation, they were nevertheless (with a single exception) ready to accept appointment. The workers were likewise willing to serve, but some of them labored under a serious handicap in their apprehension that their activities upon the board might affect the tenure of their positions. The Commission is glad to say that in the main this apprehension proved without foundation. Aside from the protection afforded by the statute itself, the co-operation on the part of employers which has been mentioned in connection with the gathering of information was conspicuous here also. That there should have been one apparent exception is not surprising, though regrettable. That there should have been only one, is a tribute to the good sense and public spirit of the employers in this industry and is matter for congratulation. In the one instance, however, two workers who were appointed to the wage board were 'laid off' immediately after their appointment. This apparent defiance of the letter and spirit of the statute is now receiving the attention of the Commission."

An attempt to prevent such occurrences was made through a proposed amendment to the present law. This amendment (H. 74, 1914) placed a penalty upon employers who discriminate against any employee who serves upon a wage board, and also gave the Commission final power in selecting members of wage boards. The amendment to section four provided that:

"The Commission shall have absolute and final power in determining who shall be members of any wage board, and may fill any vacancy in the membership of any wage board at any time occurring. In selecting the members to represent the female employees in any occupation, the Commission shall, so far as it deems practicable, ascertain what persons are desired by said female employees as the representatives of said female employees on said board; and similarly in its selection of members to represent the employers it shall, so far as it deems practicable, ascertain what persons are desired by said employers as their representatives".

The amendment to section thirteen provided a penalty of $200 to $1,000 for an employer who discharged or discriminated against any employee who has served

"or is about to serve upon a wage board, or has given or is about to give information concerning the conditions of such employee's employment, or because the employer believes the employee may testify, or may serve upon a wage board, or may give information concerning conditions of the employee's employment".

In describing the activities of the commission, the first annual report states that

"During the six months of the commission's activity, from July 1, 1913, to January 1, 1914, investigations have been made into the wages of women employees in three industries, the brush industry, the corset industry, and the confectionery industry,(1) and have been begun in other industries. The industries were chosen on account of the large proportion of women workers among the employees and the low level of wages indicated by such available material as the reports of the Bureau of Statistics, especially Manufactures 1911, and various other special reports. In

(1) The analysis of the data concerning the confectionery industry has not yet been compiled, consequently the results are not available for the present report.

the case of brushes and corsets, a study was made of every establishment within the State which employs women, in so far as the names and locations of such establishments could be ascertained.

"The Commission has held it of first importance to inform itself to the fullest possible extent regarding the elements of the labor contract; the wages paid and the corresponding occupations and hours. A transcript of the pay roll for the past fifty-two weeks was taken by agents of the commission for all female employees. Where the earnings are determined by piece rates, a schedule of such rates for the various occupations in each establishment was secured. Books were defective or in such condition that only partial records were obtainable in a small number of cases, but on the whole the pay rolls appeared to be accurately kept. In all, wage records for the fifty-two weeks preceding the investigations were taken for 6,926 women employees, 837 of these for brush workers, 2,388 for women employed in the corset factories and 3,701 for women at work on candy. For a large number of these, personal data regarding age, birthplace, family and living conditions was also obtained. In addition, a careful study was made of each process in which women are engaged, whether performed by hand or machine.

"According to analysis of the results of the separate industries, a considerable number of women workers are receiving a wage which is inadequate to supply them with the necessaries of life. Almost exactly two-thirds of the brush workers for whom wage records were available received an average for the year of less than $6 a week. A smaller proportion of corset workers, 35.5 per cent., received less than $6 a week. The sum named is lower than the minimum amounts usually named as necessary to maintain a normal, healthy existence for women workers.

"In connection with these statements, however, the failure of many employers to keep records of the number of hours worked must be taken into consideration. In both the brush and corset industries, records of hours worked were available for only a small proportion of the employees, and in

many cases for only a few weeks immediately preceding the investigation. The statement is made by certain manufacturers that not only do a large number of the employees work for only part time, but also that failure to work for full time is due, not to lack of work in the factory, but to choice on the part of the workers. Consequently the amount received at the end of the week is frequently smaller than the sum which the workers might have earned had they been employed for full time. The work of the commission has been handicapped to some extent by this defect in the records, since the average earnings and the length of the average week could be related in so small a proportion of cases. Fortunately such difficulties will be lessened after the present year, owing to the passage of the law requiring employers of labor in manufacturing and mercantile establishments to keep time books showing the number of hours worked by all employees each day.(1)

"With very few exceptions, the manufacturers have shown the fullest co-operation and have facilitated in every way the work of the commission and its agents. The commission wishes to make acknowledgement of the many courtesies which have been extended by manufacturers and their representatives.

"It has been the endeavor of the commission to carry on its study with the least possible disturbance to the industries, consistent with its purpose to inform itself thoroughly as to the facts of the wage situation."

Minnesota.

In Minnesota the commission began its work by investigating mercantile and manufacturing establishments, following the method adopted in Oregon. The preliminary investigation into mercantile establishments was completed in January, 1914, and a wage board was formed, consisting of twenty-five members — ten employers from the larger department stores of Minneapolis and St. Paul, ten representatives of employees and five repre-

(1) C. 619, Acts of 1913.

sentatives of the public. Early in January on a Sunday afternoon a large mass meeting of employees, followed by a luncheon, was held in the state capitol at St. Paul to interest and instruct the workers in regard to the operation of the law.

By the first of March the board had held four meetings and had appointed four committees, one to determine the cost of board and lodging; one to determine the cost of clothing; one to determine the period of apprenticeship; and one to determine what should be included under miscellaneous expenses.

The investigation into manufacturing industries was next undertaken by the commission, and a wage board brought together. The commission, for the most part, secured its information concerning wages received and the cost of living by circulating among employees blanks which were returned to the commission when filled out. Information concerning wages paid was secured from employers who furnished copies of their pay-rolls.(1)

Upon the formation of the first wage board (for mercantile industries) the board requested from the attorney-general his opinion on the following list of questions:

> Whereas, It is not entirely clear what powers and duties the commission or ourselves as an advisory board have, or by what methods we shall proceed, in the matter of fixing a living wage, and it is advisable in order that time may be saved and we may do our work speedily and to the best advantage that we be advised upon those matters at once;
>
> Now, therefore, be it resolved that we request the commission to submit the following questions to the attorney-general for his answer in writing so that we may have them before us for our guidance in our work.
>
> 1. Must not the commission fix a minimum wage in the "occupation" for the entire state at one time? It is claimed by some that the action of the commission must be with reference to and for the entire state, though in fixing

(1) In an eighty-four page pamphlet, issued February 2, 1914, Rome G. Brown, of Minneapolis, attacked the practicability and constitutionality of the Minnesota law.

the actual minimum it may vary the minimum in different parts of the state; but though the minimum may differ in various parts of the state they must all be fixed at the same time and as part of the same investigation and proceeding. Answer — No.

In other words, can the commission investigate the minimum wage in any "occupation" and act upon it within a district less in extent than the entire state? Answer — Yes.

2. Section 5 provides that the commission shall establish a minimum rate of wages for an "occupation" after careful investigation, the commission is of opinion the wages paid to one-sixth or more of the women or minors employed therein are less than living wages. Can the commission fix a minimum wage unless upon such investigation they find that at least one-sixth of the women or minors employed in the "occupation" within the state are receiving less than living wages? Answer — No.

Must they find that one-sixth or more of the women are receiving less than living wages before they can fix minimum wages for women, and that one-sixth or more of the minors employed in the "occupation" throughout the state are receiving less than living wages before they can fix the minimum wage for minors? Answer — No.

Or, can they consider women and minors as belonging to the same class and fix minimum wages for each if they find one-sixth of the aggregate number of women and minors are receiving less than living wages? Answer — Yes.

Must the commission fix a minimum for both women and minors in the "commission", if they fix a minimum for either? Can the minimum fixed for women differ in amount from that fixed for minors in the same "occupation" and, if so, on what basis must the difference be fixed? Answer — Yes. Respective cost of living of the two.

Can the commission fix a different minimum for male and female minors in the same "occupation"? Answer — No.

3. What is an apprentice or learner? (This question is answered by paragraph 6 of section 20 of the act itself.) By what rule shall the commission determine what is an apprentice, and what is a learner? (See above answer.)

Must the minimum for apprentices be the same as for ordinary workers? Answer — Yes. (See paragraph 7, section 20 of the law.) If not, on what basis must the commission fix the minimum for apprentices, if the cost of living is to determine the wage?

4. Must the commission make the minimum apply to all classes without regard to the necessity of the class or of the individual in the class? Answer — That depends upon facts and applies to all as defined in paragraph 8, section 20 of the law. By what rule, if any, is the commission to determine what is necessary to maintain the worker in health, and what are the necessary comforts and conditions of reasonable life? Answer — This is by ascertaining the minimum cost of living.

Can the minimum wage be varied or fixed, having in mind the ability of the employer to pay the wage, and having in mind the necessity of the employee to contribute to the support of a family or others dependent? Answer — The attorney-general concluded the commission had nothing to do with this matter.

Must not the wage be fixed solely with reference to the actual needs of the employee of ordinary ability for a decent livelihood for the employee alone, without allowing anything to enable the employee to contribute to the support of a dependent, and without allowing anything for education or amusement or for clothing or housing beyond that which will afford a minimum of comfort and amusement. (See subdivision 1, paragraph 1, section 20, of the law.)

Can the commission in fixing a minimum wage allow anything off or in reduction because of the advantages, educational or otherwise, which the employee gets from the particular employment? Answer — Probably not.

5. In case the commission should promulgate a wage rate which was unsatisfactory to some employer or employers, could the employer so objecting be compelled to comply? Answer — Yes. I think that the mere fact that the rate was not satisfactory to some employer would not excuse him from complying.

Would a rate fixed by the commission in the manner provided by the Minnesota Minimum Wage Statute be enforcible? Answer — Yes.

May we not expect that the court would hold it unenforcible? Answer — No. The right to rule upon this is left for the courts.

[In regard to the first two questions asked: "Must not the commission fix a minimum wage in the 'occupation' for the entire state at one time? In other words, can the commission investigate the minimum wage in any 'occupation' and act upon it within a district less in extent than the entire state"— these questions were taken up in conference by the attorney-general and the six assistants, and it was the unanimous opinion of the department that the acts of the commission must be state wide and it must be all done at one time.]

ADDITIONAL QUESTIONS.

1. The first point is — can a minimum wage per week be divided into half time, time by the day, or time by the hour? Answer — I think "yes."

2. Can an employer offset against a minimum wage the value of instruction given to an apprentice or learner? Answer — No.

3. When a *business* is so conducted that the branches of an ordinary trade are exercised within the business plant, does the minimum wage in that business control all employees, or does the minimum wage apply in the occupations which are grouped together in such business? Answer — To the group.

Utah.

The Utah law, the only flat-rate measure enacted, provides for the payment of a minimum of seventy-five cents a day for females under eighteen, ninety cents for adult learners and apprentices, and one dollar and twenty-five cents a day for female adults. The law became effective May 13, 1913, and the following statement, under date of January 20, 1914, from the Commissioner of Immigration, Labor and Statistics, who enforces the act, is of particular interest:

> "Our office has investigated some two hundred or more cases of alleged violations of the minimum wage law since May 13, 1913, which have had any merit and a number that had not. We knew that it was the prime object of the law makers to secure for the girls and women affected an increase of wages and in enforcing the law we have always endeavored to look after the interests of the employees first. For this reason, where we find violations, we first give the employers an opportunity to make good to their employees any shortage of wages between what they had been paying and what they were legally required to pay. In some cases, we have secured to a single employee as high as $57 in back wages. The employers preferred to pay this money rather than stand trial with the liability of paying a heavy fine and costs of prosecution, besides the ignominy of being cheap men. In the above manner, we have collected over $6,000 in back pay to employees and up to the present time we have had to bring four prosecutions, three of which we have won and one is still pending."

Writing late in 1913, the same commissioner said:

> "The minimum wage law for females went into effect in Utah on May 13th of the present year. About a month prior to the law's becoming effective, copies were sent to every known employer of female labor within the state with a notification that on and after the date of its effectiveness, the law would be strictly enforced.

"Approximately, there are 11,500 female workers employed in professional and business offices, stores, factories, mills and laundries in our state, not including canning establishments, where the periods of operation are from one to four months only. About 7,000 of these workers are employed in Salt Lake City. About 6 per cent. of the female employees, prior to the operation of this law, were under eighteen years of age. Approximately 10 per cent. of the total number of women workers came under that classification of our law classed as adult learners and apprentices with less than one year's experience in the line of work which they are at present engaged in.

"The principal businesses affected by the law are the mercantile, candy, knitting, paper box and overall factories, the woolen mills, laundries, millineries, hotels and telephone companies.

"Of the employees under eighteen years of age, constituting about 6 per cent. of the 11,500, a majority were employed as cash girls and wrappers in the department stores and received about $4 per week, a few less. The minimum wage raised the wages of this class to $4.50 per week. A number of the department stores supplanted cash girls with cash boys whom they pay $4 a week or $18 per month. Many millinery stores that were paying girl apprentices from $2.50 to $5 per week also weeded out those who were the least proficient. In the knitting, candy, paper box and overall factories, and woolen mills where the piece system is in vogue, a few girls were discharged who could not reach the minimum wage in their respective classes named in our law. This number, however, was not over 3 per cent. of the whole number employed therein.

"In the inexperienced adult class, those women over eighteen years of age with less than one year's experience as sales ladies or as apprentices in millinery stores and factories, were affected to a considerable extent. The law requires that this class shall be paid not less than ninety cents per day. Many within this classification were drawing

about the same wage as was paid inexperienced girls who were under eighteen years of age. In some cases, the older girls in the ninety cents per day class were no better sales ladies than their younger sisters. Of this class, constituting 10 per cent. of the female employees in our state, as stated above, the wages of about 3 per cent. were raised to meet the minimum wage.

" While the law did not become effective until May 13th, many of the employers who pay monthly or semi-monthly, voluntarily caused the law to become effective on May 1st. In a number of businesses, the employees who were not considered as possessing the necessary efficiency were notified that it was up to them to ' make good ' in order to retain their employment and the probationary period was fixed at from two to four weeks.

"As a whole, it seems to be the concensus of opinion of employers that the law has increased efficiency to an appreciable extent. Perhaps not more than 5 per cent. of the whole number of female employees were discharged because of this law going into effect and many of those who lost their employment found employment in other like establishments or in other lines.

"About the time the law became effective, our department was called upon by a number of business concerns to determine what generally would be considered a year's experience as expressed in our law. They were informed that any girl or woman who had worked in any kind of store as a sales girl or sales woman for the period of one year or more, or who had worked as an apprentice in a millinery establishment or as a laundry girl, telephone girl or in a factory or mill for a like period, would be considered as ' experienced ' in their respective avocations.

" Some of the department stores claim that they experienced considerable difficulty with employees coming to them from small country stores and the five and ten cent city stores. This class of employees are eighteen years old and over and have had a year's or more experience. Employers

are required to pay this class of girls or women not less than the minimum wage of $1.25 per day and have found that others of their older employees who are working as minors and 'inexperienced' are more efficient. This fact is soon manifested in a way that touches their pocket books, for the reason that the smaller paid help are soon at the elbows of their employers asking for an increase of wages with the plea that they are better or fully as efficient as the higher paid employees with a country or small store experience.

"The law has had a tendency to drive out the little errand girl in some establishments who was drawing from $2.50 to $3.50 per week and whose tenure of employment was oft-times a semi-charitable one.

"Compared with many other western states of equal and some of greater population, the wage scales of this state for both male and female labor are quite high and our newly inaugurated minimum wage law was instrumental in increasing the wages of but a small per cent. (possibly ten) of our working girls and young women. In our laundries, girls were generally paid from $6 to $7 per week and now they are paid $7.50 per week. In the department stores, the wage was from $4 to $25 and in the millinery establishments from $2.50 to $25 per week. Apprentices in the millinery establishments must now be paid $4.50 per week or else be permitted to work under instruction for absolutely no wage, in which condition the relationship of employer and employee is not established.

"Thirty dollars a month or one dollar per day was the general wage of chamber maids in many European hotels and rooming houses. Now it must be $1.25 per day for six days a week where neither board nor lodging is furnished.

"As a whole, I think the law a fairly good one and have yet to learn where it is causing any considerable amount of oppression or injustice to anyone. Some small establishments, like country printing offices, that employed female apprentices at a wage of from $3 to $4 per week for the first year, claim that they cannot afford to pay $7.50 per week for such help during the second year.

"In no establishment of the state, coming under our notice, that employs any considerable number of females, has the pay roll been increased over 5 per cent. I believe that the average is between two and three per cent.

"The law has the tendency to equalize the wages of the inexperienced and the near experienced. I believe that it increases efficiency and what is of equal and greater importance will having a growing tendency to secure to competent women a living wage."

Washington.

In the fall of 1913 the Washington commission began a series of informal conferences with employers and employees and issued a series of "questionaires" to secure information concerning the cost of living and the rate of wages paid in the state.

Considerable difference of opinion has existed in Washington over the application of the law with reference to apprentices. The law provides that:

"For any occupation in which a minimum rate has been established, the commission through its secretary may issue to * * * an apprentice in such class of employment or occupation as usually requires to be learned by apprentices, a special license authorizing the employment of such licenses for a wage less than the legal minimum wage."

On this point the former secretary of the commission said:

"Two points of difference have arisen over the interpretation of this clause: (1) Whether the issuance of apprenticeship permits be obligatory or optional with the commission; (2) whether or not a period of apprenticeship does in fact exist in mercantile establishments and laundries. * * *

"Out of 2,688 employees reporting their length of service to the commission, 51.6 per cent. had been employed at the place where they were then working for less than one year. For laundries the percentage rose to 54.8 and for mercantile establishments to 53.9.

"Many of these employees, however, were receiving high wages and presumably had worked elsewhere. Let us therefore take only those employees receiving less than $9 per week — those for whose benefit, quite evidently, the law was enacted. Of the 1,519 employees receiving less than $9 per week who made report, one-third (32.3 per cent.) had worked for less than three months, one-half (51.2 per cent.) for less than six months, and more than two-thirds (68.7 per cent.) for less than one year. These percentages are lower than would be the case for mercantile establishments and laundries alone. It must also be considered that only women who were at work at the time of investigation are included. Could the many others who had worked for a few weeks or months and dropped out within the preceding year be included, the percentages would be materially raised.

"Employers themselves admit this rapid flux in their labor force. On page 81 of the minutes of hearings by the Industrial Welfare Commission will be found the statement of a laundryman that '60 to 90 days eliminates a crew completely.'"

Early in April the conference on mercantile establishments, created in March, recommended to the commission a minimum wage of $10 a week for all females over 18 years of age. A public hearing was held on April 13 and this wage rate was adopted by the commission. The much discussed question of rules for ap prentices was left to the discretion of the commission itself.

Wisconsin.

In Wisconsin a thorough-going investigation was made into the cost of living for women and minors. Proprietors of lodging and boarding houses were visited in order to discover prices and the quality of the board and lodging furnished; estimates were also secured on the cost of clothing, laundry service, doctors' bills, amusements and other items of expense; and individual schedules for more than 12,000 working girls were secured. Informal conferences were also held with the manufacturers. At these conferences the need of uniformity in legislation not only between states but also between nations was urged.

Selection of Representatives of Employers and Employees. — It is the theory of both the English and American acts that, in order to secure fair consideration for both points of view, and the greatest degree of democracy in the operation of these measures, representatives of employers and employees should be elected by their respective groups. In the case of employers this was not found impossible in England after the act had become well understood. In the case of the employees, however, experience is quite different. The act was intended to apply to that group which is least capable of taking care of itself. This in itself implies the unorganized. To hastily bring together an unacquainted and untried group and to trust to them the selection of representatives for wage boards was to endanger the effectiveness of the administrative machinery. Qualities necessary for successful bargaining are absence of fear either of employers' blacklisting or of employees' taunts in case of compromise. Experience in debate and a knowledge of the industry under consideration and of legal rights are also important qualifications.

Reporting upon British experience, to the International Association for Labor Legislation in September, 1912, Constance Smith said:

> "The chain-making board is the only board which has, so far, been constituted by direct election of representatives by employers and workers in meeting assembled. In the other three cases the procedure was by Board of Trade nomination from lists sent up by the two parties."

In the United States, in bringing together representatives of employees, conditions in the different states have called for varying methods of selection. One state reports:

> "We have had great difficulty in selecting employees to represent the working girls. The only board appointed so far — the mercantile advisory board — has four dry goods clerks serving on it. The other six representatives of the employees are club women. I felt compelled to appoint these women because the employees are in no position to safeguard their own rights and we do not want to run any chance

of a girl losing her position. I have decided that it is practically impossible to put working girls on the board, unless they have gotten out of the industrial world. We selected both the representatives of the employers and the employees because we found that neither class wished to select their own representatives."

Another state with longer experience in selecting representatives reports:

"Our method was purely by acquaintance. In some instances we had a difficult time to secure girls who were intelligent, independent of speech, sufficiently experienced and securely enough placed in their positions not to fear dismissal. Our law does not require the representatives of the employee to be at present employed so that in two instances I secured young women who had recently been married. In the conference on mercantile store work we were fortunate enough to have one employer who approves entirely of the commission and whose employee representing the employees could speak fearlessly. Even with all this care we found the girls somewhat timid when in conference. As you probably know our law provides for a fine in case of dismissal of an employee for testifying. While we realize that this might be a check on the employer, we know also that he could advance many excuses for having dismissed a girl other than that she had testified against him. Then, too, we did not feel that if a woman had had experience, for example, in factory work, but was at the time engaged in laundry work, that she was not eligible to the factory conference for this reason; one of our factory representatives had had nearly two years' experience in a factory but was at present engaged in a laundry. Perhaps our freedom in selecting representatives of the employees helped us out somewhat. * * * At best it is difficult to get satisfactory representatives." (See also Massachusetts, p. 34.)

5. RECENT DEVELOPMENTS.

A constitutional amendment specifically permitting the enactment of laws regulating hours and wages was adopted by the people of Ohio at the constitutional convention in 1912. A similar form of amendment was passed by the legislature of California in 1913 to be voted upon by the people in 1914.

The Ohio amendment provides that:

> "Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage and providing for the health, safety and general welfare of all employees, and no provision of the constitution shall impair or limit this power."

Under the authority of this provision the Ohio Minimum Wage League framed the following proposed law:

> "To provide for a Minimum of Compensation for Labor, Work or Services."
>
> *Be it enacted by the People of the State of Ohio:* Section 1. The Governor of the State of Ohio shall, on the first day of January, the first day of April, the first day of July, and the first day of October, in each year, compile, or cause to be compiled, an estimate of the cost of living per day, per family of two adults and four minor children, in the cities of the State of Ohio, fewest in number, containing a majority of the people of the State. Said cost of living shall include rent of a six-room sanitary house with small garden; plain food, consisting of meats, vegetables, cereals, and pastries; clothing; insurance against sickness of the family; a sum sufficient to provide for the old age of the parents, and a sum sufficient to provide against the ordinary hazard of non-employment of the father.
>
> Section 2. Within thirty days thereafter the Governor shall publish said estimate once each week for three successive weeks in three newspapers of general circulation in Franklin county, and upon the final publication of same said estimate of the cost of living shall constitute and be the

minimum wage or rate per day of eight hours at which contracts or agreements may be made for the performance of or payment for the labor, work or services of any person of the age of eighteen years during the time that said estimate is in effect.

Section 3. The minimum wage or rate at which contracts or agreements may be made for the performance of or payment for the labor, work or services of persons under the age of eighteen years shall be three-fourths of said estimate of the cost of living.

Section 4. In any action brought upon any contract for labor, work or services, the amount recoverable shall not be less than the minimum wage, any contract, agreement, stipulation, settlement, or compromise to the contrary notwithstanding.

The proposed California amendment provides that:

"The legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created, such power and authority as the legislature may deem requisite to carry out the provisions of this section."

The Socialist party of California drafted the following measure which provides for a flat-rate minimum for all workers:

Minimum Wage Act

To be Circulated With Initiative Petitions by the Socialist Party of California in 1914.

The following preamble accompanies the bill on the petitions:

Whereas: Repeated investigation into the cause of crime among men and prostitution among women has demonstrated

that one of the principal causes for both is the employment of working people at less than a decent living wage, and

Whereas: The mass emigration of large numbers of working people from Europe through the Panama Canal, who are accustomed to a lower standard of living, will greatly endanger our present standard of living,

Therefore, It becomes necessary to set by law an amount below which the competition of these immigrants shall not lower our standard of living in the interest of public safety.

An Act to amend the Penal Code by adding a new section thereto to be numbered 313¾, providing a minimum wage and conditions of employment for employees and providing a penalty for violation of this act.

The People of California do enact as follows:

No employer shall employ, or require or permit any superintendent, foreman, or other agent to employ, any person for less than subsistence.

For the purposes of this act the following is determined a subsistence wage: For all persons between the ages of eighteen and sixty years, not less than two dollars and fifty cents per diem.

For all minor children under eighteen years of age, not less than one dollar and fifty cents per diem.

The employer may pay part of the wages in board and lodging, but must contract for both or none thereof, and no more than seventy cents per diem shall be deducted therefor.

Any person, copartnership, or corporation violating any of the provisions of this act is guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or imprisonment in the county jail for not less than one, nor more than six months, or both such fine and imprisonment.

II. FOREIGN LEGISLATION AND RECOMMENDATIONS.

New Zealand.

In Australasia, the original home of minimum wage legislation, there exist two different types of laws. One type, initiated in New Zealand in 1894 and later followed by New South Wales, Western Australia and by the Australian Commonwealth where disturbances extend beyond state lines, is aimed primarily at the settlement of trade disputes — strikes, lockouts, or any question involving hours of labor, rates of wages or conditions of work. The other type, initiated in Victoria, in 1896, and later followed by South Australia, Queensland and Tasmania, is aimed at the evils of the sweating system — underpaid labor, exhausting hours of toil and unhealthful conditions of work.(1)

In attempting to utilize Australasian experience for our American situation it must be remembered that New Zealand is a country about the combined size of New York, Pennsylvania and Massachusetts, with a population of a little over a million; Victoria is less than the combined area of New York and Pennsylvania, with a population of about one million and one-third. New Zealand's three or four large cities range from fifty to one hundred thousand, while Victoria has only one industrial city with a half-million population.

The beginning of minimum wage legislation occurred in New Zealand in the year 1894, when Parliament passed the Industrial Conciliation and Arbitration Act which became effective one year later. Since this class of legislation bears but little resemblance to the minimum wage measures under consideration in America, being aimed primarily at the settlement of trade disputes, only a brief statement of the main features is necessary. This law

(1) In most of the Australasian states a flat-rate minimum wage is established by law. This rate is usually very low and is intended to protect principally children, learners and apprentices.

operates through a permanent industrial commissioner who is provided for each industrial district and to whom requests may be sent for intervention in any dispute; two or three representatives of the employers and of the employees are appointed from lists sent in by each group; and these representatives, together with the commissioner, who presides and directs but has no vote, form a Council of Conciliation. If this council fails to bring the two contending parties to an agreement the case goes to the Arbitration Court where the decision is final. This court is composed of one Supreme court judge holding office for life and two members nominated by employees and employers (1). The general principle of this measure, up to the point of the establishment of the Arbitration Court, has been followed in the Canadian Industrial Disputes Act of 1907; but in Canada, the board of investigation and conciliation, when no agreement is reached, may only publish its findings.

VICTORIA.

Based upon a point of view quite unlike that underlying the New Zealand legislation, the Victorian Wage Boards Law, enacted in 1896, was aimed directly at the evils of sweating, particularly among home workers. This law makes no attempt to interfere in case of trade disputes and is in general principle similar to our American acts. No permanent body is provided as in America but wage boards for any trade may be called into existence at any time by a resolution adopted by both houses of parliament. Employers and employees must then send in their nominations to the Minister of Labor who makes a selection of from four to ten members for the special board, which elects its own chairman and secretary. If agreements are reached the findings are laid before the Minister of Labor who, if he approves them, causes them to be gazetted and they become law not sooner than thirty days thereafter. If employers and employees cannot come to an agreement, the chairman may cast a deciding vote. If the Minister of Labor considers the determinations unfair or unwise

(1) For a statement as to the rulings of the judges, see Judicial Interpretations of the Minimum Wage in Australia, by Prof. M. B. Hammond, the *American Economic Review*, June, 1913.

he may suspend the order for six months and then send it back to the board for reconsideration. If no change is authorized, the suspension is revoked. In case the Minister of Labor, or a majority of either party concerned, is not satisfied with the determinations, or if 25 per cent. of the employees of the trade, or an employer or group of employers of 25 per cent. of the employees concerned, are dissatisfied, they may apply for a Court of Industrial Appeals, which is composed of one of the judges of the Supreme Court, who has the final decision in the case. From September, 1910, to December, 1912, only ten cases had been appealed to this court.

In all instances the special boards may summon witnesses, examine records, books or pay-rolls, and may conduct special investigations. In an earlier form of the law the basis of determining wage rates was specified as the standard of the "reputable employer" in the trade under consideration. This was later stricken out, and the basis now often used is "the normal needs of the average employee regarded as a human being living in a civilized community." The determinations of the boards are enforced by the Minister of Labor and the Factory Inspection Department. Of the first thirty-eight boards established eleven were appointed upon applications of the employers. In December, 1913, there were 134 wage boards in existence.

Sir Alexander Peacock, author of the Victorian system, recently wrote: "* * * it was alleged, first, that all work would be driven out of the country, secondly, that only the best workers would be employed, and thirdly, that it would be impossible to enforce such provisions at all. It is now somewhat amusing, although it was serious enough for the government of the day, to read the debates on the Factories and Workshops Act, 1896. However, the government managed to carry the bill and the wage board system was inaugurated."(1)

Dr. Victor S. Clark, formerly of the United States Bureau of Labor, who has made exhaustive and extended investigations of Australasian labor conditions, wrote in 1909 (in the Annals of

(1) Quoted in the Annals of the American Academy of Political and Social Science, Vol. 48, p. 28, 1913.

the American Academy of Political and Social Science, Vol. 33, p. 221) "* * * the courts and boards offer what is probably the best machinery yet devised to protect women and children workers from industrial oppression. The board determinations, varying with each industry and accommodating themselves to its peculiar local conditions, are much more effective than the hard and fast provisions of a general statute. They become, for the purposes of enforcement, a part of the factory law of the state, applying to the industry in question by consent of its own representatives. * * * the general effect of the law has been to increase and equalize the pay of those classes of labor least able to obtain fair conditions of employment through their unassisted efforts, and this function of the law appears to be assuming increasing importance in the public mind."

The most recent and thoroughgoing study of the results attained under the Victorian minimum wage legislation was made by Prof. M. B. Hammond, of the Ohio State University. Prof. Hammond spent the winter of 1911–1912 in Australia and New Zealand, and reports as follows:

> "In conclusion I wish to sum up as briefly as possible the results which it seems to me have been attained in Victoria and, so far as their experience extends, in the other Australian states, under the wages boards' system. Perhaps I may be allowed to say that I have reached these conclusions after a thorough study of the reports and records of the departments concerned in the administration of the acts; after attendance on many board meetings; and after interviewing many people, government officials, chairmen of wages boards, employers, trade union officials, social reformers and politicians who have had much to do with wage board legislation and administration.
>
> "1. We may say without hesitation, I think, that sweating no longer exists, unless perhaps in isolated instances, in Melbourne or in other industrial centers of Victoria. This is the opinion expressed to me not only by the officials in the factory inspector's office, including the women inspectors, but also by Mr. Samuel Mauger, the secretary of the Anti-

Sweating League, who is constantly on the alert to detect any evidence of sweating and to ask for the appointment of a board in any trade in which it is thought to exist. In the board meetings the efforts of the labor representatives are nowadays seldom directed towards securing subsistence wages but they aim rather to secure a standard rate of pay based on the needs of the average worker, and as much above this as is possible.

"2. Industries have not been paralyzed nor driven from the state as was freely predicted by extreme opponents of the wages boards' plan. There is one instance of a plant having left Victoria on this account. A brush manufacturer from England, who had recently come to Victoria to establish his business was so enraged at the idea that the wages he was to pay were to be regulated by law that he moved across Bass Strait to Tasmania. That is the only instance of the kind to be found in the records. On the other hand there has been a steady growth of manufactures. In 1896, when the factories act, containing the wages board provisions, was passed, there were in Victoria 3,370 factories; in 1910 there were 5,362. In 1896, the number of workers in factories was 40,814; in 1910 it was 83,053. This, I think, indicates as great a growth in manufacturing industry as most countries are able to show.

"3. In spite of the fact that the law in Victoria does not forbid strikes, as is the case under compulsory arbitration, it would be hard to find a community in which strikes are so infrequent as they are in Victoria. There are, I think, not more than half a dozen cases in which a strike has occurred in a trade where the wages and hours were fixed by a wages board. The only serious strike of this sort was in a trade where the court of industrial appeals had lowered the wages fixed by the wages board after these wages had been paid for some weeks. I may add at this point the statement that there are very few cases of appeals from a wages board determination in Victoria, though there seem to be more in South Australia.

"4. In spite of the fact that the meetings of the boards are at times the scenes of outbreaks of passion, and angry and insulting words pass back and forth across the table, there can be little doubt but that the representatives of both parties go away from these meetings with an understanding of the problems and difficulties which the other side has to meet, which is usually lacking in trades where collective bargaining is not resorted to. This was repeatedly brought to my attention both in and out of board meetings by men who had taken part in these discussions. It probably goes far towards explaining the infrequency of strikes and lock-outs.

"5. That the minimum wage fixed by the board tends to become the maximum in that trade is often asserted, but it would not be easy to prove. Employers have frequently said to me that they believed there was a tendency in that direction, but they have seldom been able to furnish evidence to that effect from their own establishments. At times I have found on inquiry that not a single man in their own plants was receiving the minimum wage. The employers' opinions seemed to be more the result of *a priori* reasoning than the results of actual experience. Nor, on reflection, it is easy to see why the minimum should become the maximum. The determinations do not compel an employer to hire or to retain in employment any worker. He is free to dismiss any man whom he believes incapable of earning the minimum wage, or he can send the employee to the chief factory inspector for a permit to work at less than the minimum fixed by the board. There seems to be no reason why under this system there should not be the same competition among employers as under the old system to secure the most efficient and highly skilled workmen and there is no reason why such men should not get wages based on their superior efficiency. Victorian statistics on this point are lacking, but in New Zealand where minimum wages are fixed by the arbitration court, statistics as to wages, tabulated in 1909 by the Labor Department, showed that in

the four leading industrial centers of the Dominion the percentage of workers in trades where a legal minimum wage was fixed who received more than the minimum varied from 51 per cent. in Dunedin to 61 per cent. in Auckland. There is no reason to think that a dissimilar situation would be revealed by a statistical investigation in Victoria.

"6. Although the legal minimum wage does unquestionably force out of employment sooner than would otherwise be the case a certain number of old, infirm and naturally slow workers, it is easy to exaggerate the working of the minimum wage in this respect. The opinions of employers differ in regard to this point. Workers who feel that they can not earn the minimum wage may apply to the chief factory inspector for a permit to work at a less rate than the minimum and the officials who have charge of this matter feel pretty certain that in this way practically all cases really needing relief are cared for. The percentage of men with permits is, however, not high, and possibly there are some who are forced out of work who do not apply for a permit.

"7. There is also much difference of opinion as to whether or not the increased wages have been to any considerable extent counterbalanced by an increase of prices due to the increased wages. The probability is that in some occupations higher wages have in this way been passed on to the consumers, the laboring classes included. This would be especially true of industries purely local where there was little opportunity to use machinery.

"In Melbourne, following close upon a wage board determination which raised the wages of waiters and cooks in hotels and restaurants, the cheap restaurants which had been furnishing meals at 6d. (12 cents) by a concerted movement doubled their prices. While the increase of wages in this case was doubtless in part responsible for this increase of prices, in the main the wage increase was the occasion rather than the cause of the increase in prices, which was bound to come sooner or later because of the increase in cost of food supplies.

"The New Zealand commission on the cost of living, which has recently published its report, carefully considered this question as to the effect of labor legislation on the cost of living and concluded that in the case of staple products whose prices were fixed in the world's markets, the local legislation could have had no effect on prices. In other trades, the increased labor costs had served to stimulate the introduction of machinery and labor saving devices; in still other trades it had apparently not increased efficiency and accordingly labor costs had increased. This seems to have been the case in coal mining. Generally speaking, the evidence in most trades was not sufficiently definite to show whether or not there has been an increase or a decrease in efficiency due to labor legislation. This is about what we must conclude as a result of the conflicting testimony on this point in Australia as well as in New Zealand. I found that most employers with whom I talked were certain that laborers were less efficient than in former years. Generally they could not explain very satisfactorily how this was due to legislation, and their arguments usually reduced themselves to the assertion that the trade unions were preaching and their members were practicing the doctrine of 'go easy' and were in this way restricting the output. Trade union officials, on the other hand, were just as emphatic in their declaration that such a matter had never been discussed in their meetings. I do not believe that in this respect conditions in Australia differ from what they are in America and I find that the same assertions are made here by employers as to the effect of trade unions and that these statements are as vigorously denied by the union officials. Only to the extent, therefore, that compulsory arbitration and wage boards tend to develop and strengthen unionism, which they undoubtedly do, can we find that the legal minimum wage exerts any appreciable effect on the decline of efficiency and the restriction of output. This must remain therefore a mooted point.

"8. Finally, whatever may be the difference of opinion between employers and employees as to the effect of the legal minimum wage in Victoria in producing certain results and whatever criticisms they may make of the administration of the factories act, both sides are now practically unanimous in saying that they have no desire to return to the old system of unrestricted competition in the purchase of labor. I did not find an employer who expressed a desire to see the wages boards abolished. Generally speaking, employers are just now holding tightly to this plan, partly no doubt as a means of saving themselves from an extension of the operations of the commonwealth arbitration act. In the main, however, they have been convinced that the minimum wage has not been detrimental to their businesses, and that it has forced their rivals to adopt the same scale of wages as they are themselves obliged to pay. I have mentioned the fact that the Victorian Chamber of Manufactures led the attack on the wage board system when the government was providing for its extension in 1900. Last April (1912) the president and secretary of that organization, and the president and secretary of the Victorian Employers' Association, told me that in spite of the defective administration of the wages boards act, their members had no longer any desire to have the system abolished. The trade union secretaries also complain of the administration of the act; particularly that the chief factory inspector does not take a more drastic attitude in regard to the prosecution of the violators of the act whom they have reported. This fact that both sides complain of the administration of the act is a pretty fair indication that the administrative officials are doing their work in a conscientious manner without prejudice or favor. The trade unionists generally admit that labor has been greatly benefited by the wages boards' legislation and they do not desire a repeal of these laws, but many of them in Victoria are inclined to think that compulsory arbitration would give them even more. The wages boards deal only with wages, hours, payment for overtime and the number and proportion of apprentices. The arbitration courts, on the other hand,

may and sometimes do give preference to unionists and are often called upon to decide many minor matters which can not be considered by wages boards. Furthermore, wages boards established by any one state are bound to consider interstate competition when they fix wages. The commonwealth arbitration court, on the other hand, can regulate wages throughout Australia in the industrial field within which it operates. Hostility to the minimum wage in Australia may therefore be said to have practically died out and the question most discussed to-day is whether this minimum wage shall be secured by means of wages boards or through the machinery of a federal arbitration court."

The following list of questions concerning the operation of the minimum wage law in Victoria was sent by the New York Factory Investigating Commission to the office of the Chief Factory Inspector at Melbourne:

"First. Does the minimum wage become the maximum?

Second. How far are the unfit displaced by such legislation?

Third. Do such laws tend to drive industry from the state?

Fourth. Do they result in decreasing efficiency?"

In response the following statement was received:

First Question.

"It is frequently asserted in this State that the minimum becomes the maximum, but our official figures show that this is not the case. I am sending by separate packet a book containing all the existing factory laws of Victoria, and a copy of my latest annual report. If you will kindly refer to Appendix B you will see what the average wage in the trade is. A further reference to Appendix D will give you the wages in any particular trade. I regret that I have not figures which will precisely answer your question, but a careful comparison will show that the average wage in a

trade is invariably higher than the minimum wage. I do not know that there is any exception to this in Victoria.

Second Question.

"Legislation which fixes a standard wage undoubtedly has the effect of displacing the unfit. Our experience, however, shows that this dislocation is not serious, and that as a rule things regulate themselves fairly satisfactorily. It is true, however, that in Victoria for some years there has been a shortage of labor, and this fact probably has a good deal of bearing on this point. I do not think there is any evidence that philanthropic agencies have ever been called upon to increase their work through minimum wage legislation. There is, however, a section in our law which enables a license to be issued to a defective worker to permit a lower wage than the minimum to be paid to him (see section 202 on page 98 of the Handbook sent). This power is only sparingly used, as it is regarded very jealously by the trades unions, and this department requires very strong evidence before it will issue a license to work for less than the minimum.

Third Question.

"There is no evidence to show that our labor legislation has driven any industry from the state, nor from Victoria to any other part of the commonwealth. As a matter of fact, labor laws are in operation all over the commonwealth, so that, if our legislation had any such effect, the industry would have been driven to other countries. There has been an increasing amount of imports in the last few years, but I think I can safely say that the evidence tends to the belief that that is caused more by our general prosperity than any other factor. Side by side with the increasing proportional imports has been a great increase in production and in the number of factories established.

"My own opinion is that the fixing of a standard wage increases efficiency generally, from the fact that the employer demands in return a standard degree of efficiency. It is

true that some of the unions have endeavored to restrict the output, and have in some cases gone so far as to strike for the purpose of enforcing their demands. They have invariably failed. At the same time there is some evidence that in certain of the trades — and in that connection the agricultural implement making trade might be mentioned — they have succeeded to some extent in lessening the output. For that reason there is a large section of employers in this state who believe that the only fair way of regulating wages is by piecework. Our wages boards have power either to fix piecework rates or to give the employer that privilege with the provision that the piecework rates fixed by him shall be such as will enable an average worker to earn at least the minimum wage. One strike is on record against the fixing of piecework rates by the employer. The moulders at the Sunshine Harvester Works objected to piecework rates in any form, although in fact the men were earning considerably over the minimum, and in some cases twice as much. Yet the union took their men out for the simple reason that they objected to piecework being paid under any circumstances, and the men have been out now some five or six weeks. It is only a sectional strike, and probably not more than twenty or thirty men are affected. To answer your question generally, I think it can be truthfully said that the efficiency of the workers all round is distinctly higher under the minimum wage than it was before.

"I may say, in conclusion, that the minimum wage law in Victoria is working very smoothly. There are fewer strikes in this state under the wages boards provision than in the neighboring state of New South Wales, where they have an arbitration court. For the last three months, out of the forty-nine strikes that occurred in the six states of Australia, thirty-eight were in New South Wales. Our wages board law takes no cognizance of a strike once it occurs, but leaves the parties to fight it out amongst themselves. In New South Wales they have elaborate provisions for settling strikes that occur, with the above result. We

believe that the best way of settling strikes is to provide — as we do in Victoria — every means of arriving at fair conditions between master and man, and of revising those conditions as occasion demands, and then washing our hands of the whole matter."

Germany.

The German government, in 1911, passed a Home Work Act, which, although it falls short of the establishment of trade boards to fix a minimum rate of wages, sets up *trade committees* of a very similar type, whose lack of power to regulate wages directly might easily be remedied by a supplementary act. At present trade committees may be appointed by the Federal Council for particular trades or districts where home workers are employed. The committees consist of an equal number of home workers, as defined, and their employers, together with a president and two assessors, who must have the requisite technical knowledge. The president must be neither an employer nor a home worker. Women must be duly represented if they are largely employed in the trade. It is left to the authorities of the various states to fix the number of representatives and to appoint not only the president and assessors but also, after consultation with the employers and home workers, half their representatives. The remainder of the representative members are elected by the employers and home workers respectively.

The duties of the trade committees touch the borderland of wages regulation. Their functions, as defined in the act, include the collection of information and, vaguely, the promotion of institutions or measures for improving the conditions of home workers, such as collective agreements. If the authorities are energetic in setting the committees to work, the information they collect will in time be valuable if their functions are later extended, as has been predicted. For they must " on the request of the municipal and communal authorities ascertain, in a suitable manner, especially by procuring evidence from employers and home workers concerned, the amounts actually earned by home workers, express opinions as to whether such amounts are

reasonable, and make proposals for procuring agreements for reasonable remuneration."

Firms giving out work must keep registers of home workers, post up fixed rates of pay in the rooms where work is given out or returned, and supply to the workers on each occasion particulars of the amount of such work and rates of pay, and they must, in addition, conform to any instructions issued by the local authorities to improve, where necessary, their arrangements for giving out work or receiving it back, in order to prevent undue waste of time on the part of the outworker.

GREAT BRITAIN.

The Trade Boards Act. — In England considerable legislation had already been enacted to provide for conciliation in the case of trade disputes, before the evil of sweating, which was becoming more and more obnoxious, led to the passage of the Trade Boards Act. It was to the Victorian legislative model that the English reform movement turned for relief. In 1906 the National Anti-Sweating League was formed, which, together with the labor party and other leading organizations, began to urge some system of establishing a minimum wage which would reach the less intelligent and unorganized workers. It was in 1909 that they succeeded in inducing parliament to pass the Trade Boards Act which became effective one year later. Under this act, wage or trade boards may be established for all employees in any industry by order of the Board of Trade, subject to ratifications by parliament. The first four trades for which trade boards were established were: ready-made tailoring, cardboard box making, the making of hammered, dollied, or tommied chain, and certain processes in lace finishing.

For each such trade, or any branch of the same, the Board of Trade was empowered to appoint a committee called a "trade board," consisting of an equal number of representatives of employers and workers (known as "representative members"), together with a certain number of persons including women (known as "appointed members"). The number of appointed members must be less than half the total number of representative members. The Board of Trade decides which member shall

act as chairman. Trade boards may fix general minimum time rates or minimum piece rates and on the application of any employer they must fix a special minimum piece rate for any particular class of work on which he is engaged. The rates fixed may differ for different classes of workers, for different districts and for different processes. To advise the Trade Board, district committees may be appointed in fixing rates for their respective localities.

When a trade board proposes to fix a certain rate, three months notice must be given, within which period objections to the rate proposed may be raised. On the conclusion of this period the rate comes into operation to a limited extent. It is compulsory in the absence of a written contract, signed by the worker, providing for a lower rate, and it must be adopted by all firms engaged on public contracts. Six months later, the Board of Trade has power to make the rate obligatory in all cases. Special exemptions can be procured under the act in the case of old or infirm workers.

The act provides for the appointment of inspectors for enforcing the payment of the minimum rates fixed by the trade boards. Such inspectors have the right to enter work places at any reasonable time and to inspect books, etc. If an employer pays less than the minimum rate, he is liable to a penalty not exceeding 20 pounds.($100) and for each day on which the offense is continued after conviction, 5 pounds ($25). An employee who has not received the legal minimum rate may recover the balance due him.

A clearer idea of the method of work under this act may be secured from the following rules which the Board of Trade issued for the paper box trade:

STATUTORY RULES AND ORDERS, 1910.

No. 429.

TRADE BOARDS.

Regulations, dated April 27, 1910, made by the Board of Trade, establishing a Trade Board, under s. 11 of the Trade Boards Act, 1909 (9 Edw. 7, c. 22), for the making of Boxes or parts thereof made wholly or partially of Paper, Cardboard, Chip or similar material.

The Board of Trade, in pursuance of their powers under the Trade Boards Act, 1909, hereby make the following Regulations with regard to the making of Boxes, or parts thereof, made wholly or partially of paper, cardboard, chip, or similar material:

1. A Trade Board shall be established for that branch of the Box Trade in Great Britain which is engaged in the making of boxes or parts thereof made wholly or partially of paper, cardboard, chip, or similar material.

2. The Board shall consist of not less than 35 and not more than 41 persons, namely, three appointed members, and members representing employers and workers, respectively, in equal proportions. The Chairman and Deputy Chairman shall be such of the members as may be nominated by the Board of Trade.

3. Sixteen members representing employers shall be elected by employers in the above trade as follows:

1 representative by employers trading within a radius of 18 miles of the Royal Exchange, Manchester.

1 representative by employers trading outside that radius and within the counties of Cumberland, Westmoreland, Lancashire, Cheshire, and in North Wales.

1 representative by employers trading in Northumberland, Durham, and Yorkshire.

1 representative by employers trading in North Staffordshire and the counties of Leicester, Northampton, and Huntington.

1 representative by employers trading in the counties of Nottingham, Derby, Lincoln, and Rutland.

2 representatives by employers trading in the counties of Hereford, Worcester, Warwick, Oxford, Stafford (South), and Shropshire.

2 representatives by employers trading in the counties of Somerset, Devon, Cornwall, Dorset, Wiltshire, Gloucester, Monmouth, and South Wales.

4 representatives by employers trading in London and the counties of Middlesex, Norfolk, Suffolk, Essex, Kent, Hertford, Bedford, Buckingham, Surrey, Berkshire, Sussex, Hampshire, and Cambridge.

3 representatives by employers trading in Scotland.

The election of representatives of employers shall be held under the supervision of the Board of Trade and in such manner as they may determine. A casual vacancy among members representing employers in any of the areas above specified shall be filled by election by employers in that area.

4. Sixteen members representing the workers shall be chosen by the Board of Trade after considering names supplied by workers in the above trade, due regard being paid to the proper representation of home workers. A casual vacancy among members representing workers shall be filled in the same manner.

5. The Board of Trade may, if they think it necessary in order to secure proper representation of any classes of employers or workers, after giving an opportunity to the Trade Board to be heard, nominate additional representative members on the Trade Board, and such representative

members may be nominated either for the whole term of office of the Board or for any part thereof. The number of such additional representative members shall not at any time exceed six, three on each side.

6. The term of office of the first Trade Board shall be three years.

7. Any representative of employers who becomes a worker at the trade shall vacate his seat. Any representative of workers who becomes an employer in the trade shall also vacate his seat. The question of fact shall in each case be determined by the Chairman.

8. Any representative of employers or workers who fails without reasonable cause to attend one-half of the total number of meetings in one year, shall vacate his seat, but shall be eligible to be elected or nominated again, as the case may be.

9. Every member of the Trade Board shall have one vote. If at any meeting of the Board the number of members present representing employers and workers, respectively, are unequal, it shall be open to the side which is in the majority to arrange that one or more of their members shall refrain from voting, so as to preserve equality. Failing such an arrangement, the Chairman, or in his absence the Deputy Chairman, may, if he thinks it desirable, adjourn the voting on any question to another meeting of the Board.

10. Any question upon the construction or interpretation of these regulations shall in the event of dispute be referred to the Board of Trade for decision.

Signed by order of the Board of Trade this 27th day of April, 1910.

G. R. ASKWITH,

Assistant Secretary, Board of Trade.

While procedure under the British act is similar on all essential points to procedure under our compulsory minimum wage laws, the English boards have dealt with much more complicated

situations than we in America have yet faced. So far, the English act has applied mainly to those industries which are characterized by excessive sweating and where the employees are almost entirely home-workers — the most difficult class from which to get united action. The English boards have considered rates for each kind of work within an industry, and for each class of workers, as well as for each district where the industry is located. Constance Smith, reporting to the International Association for Labor Legislation in September, 1912, spoke of some of the difficulties encountered as follows:

> The number of members of the Chain-making Board had been fixed at not more than seventeen persons (including three appointed members); the Lace Board is slightly larger, the minimum and maximum numbers in this case being nineteen and twenty-three. This board has also to deal almost entirely with outworkers. These women, who are nearly 10,000 in number, do not take out work directly from the factory, but have it distributed to them by some 700 middle-women. This circumstance, together with the fact that the lace trade is at all times conscious of the pressure of foreign competition, makes the work of the Lace Board one of considerable complication and delicacy. The board has to be careful not to fix the rates at a point which will let in the French, Swiss or German competitor; it has also to deal with distributing agents who have been accustomed to take percentages of the prices paid to them by employers at varying rates and whose ideas of the binding authority of the Truck Acts is in some cases of an exceedingly lax description. The price lists which governed the situation in Nottingham before the coming of the Trade Board were price lists given to the middle-woman, and acted upon by her at her discretion; there was no rule by which a definite proportion of the price was paid to the actual worker. As a rule the prices paid were miserably low, and the workers sunk in poverty and misery. Here, far more than in any other of the scheduled industries, was there difficulty in finding women of sufficient intelligence and inde-

pendence to serve on the Trade Board as workers' representatives. But for the plan wisely adopted by the Board of Trade, of not insisting that these representatives should be in every case engaged in the trade itself, it would have been impossible to secure adequate representation of the workers' side.

The tailoring trade, one of the most complex in all industry, did not baffle the English board. Of this trade, Miss Smith says:

> The Tailoring Board (twenty-nine to thirty-seven members) has to do with by far the most important trade and the largest number of workers. It is, however, not so widely distributed, geographically, as the box trade, being for the most part concentrated in certain great cities. The trade is far more complicated than any of the other three, many and great variations being found in that simple section of it which is at present being handled by the Board. There was a time, not very long ago, when even experienced persons expressed the view that, owing to the seasonability of the trade, and its variations, the establishment of minimum rates in connection with it would prove impossible. But Sir George Askwith, speaking out of an experience unique as regards the fixing of price lists, all along disputed this pessimistic view. He wrote (Soziale Praxis, January, 1911) that he considered objections based on the changes of fashion and its varying forms to be ill-founded. Skill and organization are what is needed here. In the higher branches of this very industry, means of solving the problem have already been found; a piece-work list has been established there for some time. If the workers had been better organized that list would have already been adopted by other branches. * * * I have helped personally to establish rates for industries in which variations, much greater and much more complicated than any that exist in the tailoring trade, were involved. We sometimes took weeks to achieve our object; but in the end we did achieve it.

The rates of wages paid in the four trades for which boards were first authorized seem, particularly in comparison with wage rates in America, pitifully low (not a few women in the chain-making trade received two cents an hour). Yet increases of from 50 per cent. to 150 per cent. have had their influence: "The women seem different beings from the inert and sunken people who attended meetings in pre-board times."

Considerable difficulty was experienced in England in securing proper representatives of employees. In contrast with the method of our wage commissions which themselves undertake the selection of representatives, the Board of Trade appoints, from lists sent to it, members representing the employers and employees. The selection of these members is left entirely in the hands of each group. While the employers found but little difficulty in quickly becoming organized, in the case of the employees, being the least experienced class of workers, entirely unorganized and full of suspicion, the selection of proper representatives has fallen largely upon the friends of the workers. On this point Miss Smith said in 1912:

> "The Chain-making Board is the only board which has, so far, been constituted by direct election of representatives by employers and workers in meeting assembled. In the other three cases the procedure was by Board of Trade nomination from lists sent up by the two parties."

In the case of the chain workers, it was the writer's privilege to be present at Cradley Heath at the organization of the first trade board, and the election of members was preceded by a long, expensive and persistent campaign of education. The cost of these educational campaigns has been so great that at a recent meeting, presided over by the Duchess of Marlborough, a special fund of nearly $4,000 was raised to defray expenses incidental to preparing workers for representation on the four newly authorized trade boards.

On the question as to whether or not the minimum rate becomes the maximum the *Amalgamated Journal of the Iron, Steel and Tin Workers* said last year, "Many classes of wage earners

who would be benefited and protected by minimum wage legislation have been living too close to starvation to make possible any reasonable amount of concerted action on their part, or such preparation, financial or otherwise, as would ordinarily be considered essential for success. To all such classes of wage earners minimum wage legislation should be valuable as establishing an existence basis from which they are in a better position to achieve further improved wages and conditions through organized effort. A woman wage earner receiving a minimum wage of eight dollars per week is on a better basis from which to secure ten dollars per week than the same woman getting four dollars is in a position to get five dollars." This expression of opinion has been entirely sustained by a recent occurrence in England. It had been generally accepted that rates first established by a trade board was a full discharge of the duty of the board although the act itself clearly provided for variations. But on December 2nd of 1913 the Chain-making Board confirmed proposals to increase by 10 per cent. the minimum rates it established in 1910. "The precedent," declares the National Anti-Sweating League, "will encourage representatives of workers on other boards to address themselves at once and vigorously to the progressive improvement of the minimum rates fixed for their trade."

Last year Parliament authorized the establishment of trade boards in four additional industries: sugar confectionery and food preserving; shirt making; hollow-ware making; and linen and cotton embroidery.

Sugar confectionery and food preserving includes the making of sugar confectionery, cocoa, chocolate, jam, marmalade, preserved fruits, fruit and table jellies, meat extracts, meat essences, sauces and pickles, the preparation of meat, poultry, game, fish, vegetables and fruit for sale in a preserved state in tins, pots, bottles, and similar receptacles; the processes of wrapping, filling, packing, and labeling in respect of articles so made or prepared.

Shirtmaking includes the making from textile fabrics of shirts, pajamas, and other washable clothing worn by male persons, excluding articles the making of which is included in paragraph I of the schedule in the Trade Boards Act, 1909, and

excluding articles which are knitted or are made from knitted fabrics.

Hollow-ware making includes the making of hollow-ware (including boxes and canisters) from sheet iron, sheet steel or tin plate, including the processes of galvanizing, tinning, enameling, painting, japanning, lacquering and varnishing.

Linen and cotton embroidery includes those branches of the trade of making up articles of linen or cotton or mixed linen and cotton which are engaged in the processes of hand embroidery, drawn thread work, thread drawing, thread clipping, top sewing, scalloping, nickeling and paring.

The National Anti-Sweating League reports, July 29, 1913, that:

> "In the trades at present within the scope of the Trade Boards Act there are approximately 250,000 operatives. The numbers likely to be affected by the boards about to be established are roughly as follows:
>
> | | |
> |---|---|
> | Sugar confectionery and food preserving..... | 80,000 |
> | Shirtmaking..... | 50,000 |
> | Hollow-ware..... | 15,000 |
> | Cotton and linen embroidery..... | 5,000 |
> | | 150,000 |
>
> "Certain branches of the laundry trade were to have been included also, but the Provisional Order Bill bringing them in was withdrawn by the Board of Trade because of defects in its terminology. Mr. Buxton has intimated that the bill will be reintroduced next year and should it apply to all laundrying, as is considered likely, 110,000 workers will be added to those already enumerated. In this case nearly 500,000 workers, mainly women, will be within the purview of the act though only four years have elapsed since its passage into law."

Mr. J. J. Mallon, writing in *The New Statesman,* February 21, 1914 (Women's Supplement, p. x), says:

"What the boards have accomplished may be shortly summarized. For men chain-workers at Cradley Heath the minimum rates are from 5d. to 7½d. an hour, and for women 2¾d. per hour, these sums including an addition of 10 per cent. just made to the rates originally fixed. Miserable as is this woman's rate of 2¾d. an hour, yet as compared with what went on before it is handsome. Hundreds of women were at one time earning less than half as much, and at their meetings any mention of a possible minimum of 10s. for a week of full employment aroused only sceptical mirth. At the present legal rate the worker of ordinary capacity earns, if fully employed, rather more than 12s. per week.

"As a fact, of course, many are not earning so much. Women chain-makers at Cradley Heath are chiefly wives and mothers, and of these a portion take the benefit of the higher rates in the shape of ampler leisure, or in time devoted to their domestic concerns. Formerly such women worked for a week to earn half a dozen shillings. Under the new conditions as much may be earned in two or three days.

"It should be remembered that the husbands of many of these workers are themselves beneficiaries. In the smaller forges men and women work side by side, and where this occurs the uplift to the joint income has been of the most substantial kind. 'More food and better,' said one local tradesman when asked as to the effect of minimum rates upon the chain-maker's purchase; and his view receives general corroboration. An improvement in the quality of the lower grades of chain, and a great incentive to organization, alike in Cradley Heath and in the surrounding areas, are further results of the coming of the Trade Board.

"What about the effect on the trade? If one may judge by appearances, the trade has actually thriven. The cry of most employers is that they cannot get workers enough, and some anxiety is expressed as to the future should the recruit-

ment of young chain-makers not be augmented. Certainly the trade has not fallen off.

"In a word, the Trade Board at Cradley Heath has more than justified its friends and confounded its enemies. Its success is definite, considerable, and complete. It has made a deep and abiding mark upon the history of the Black Country. No other industrial event of the present generation has so impressed and affected the workers of the district."

The following list of questions concerning the operation of the minimum wage law in England was sent by the New York Factory Investigating Commission to the office of the Board of Trade at London:

"First. Does the minimum wage become the maximum?

Second. How far are the unfit displaced by such legislation?

Third. Do such laws tend to drive industry from the state?

Fourth. Do they result in decreasing efficiency?"

In response the following statement was received:

"I am directed by the Board of Trade to say that, as the Trade Boards Act has only been in operation for a comparatively short period, they consider that it is as yet too early to express a definite judgment on its indirect and ultimate results.

"The board are of opinion, however, that provisional replies, based on the experience so far obtained of the working of the act, may be given to the questions contained in your letter, as follows: (1) The board are not aware of any general tendency among employers to reduce rates to the minimum allowed by law in cases where higher rates have been paid in the past. On the contrary, there is reason to suppose that the better organization of the workers, which has been observed to have taken place in the trades to which

the act has been applied, tends to prevent the legal minimum rate from becoming in fact the maximum. (2) So far as the board are aware, there has been no general dismissal of workers as a result of the fixing of minimum rates; and even where workers have been dismissed on this account, it has frequently been found that this has been due to misunderstanding of the act and not to its actual provisions. (3) The board are not aware of any tendency on the part of manufacturers to transfer their business to foreign countries, or, in cases where lower minimum rates have been fixed for Ireland than for Great Britain, to transfer their business from Great Britain to Ireland. (4) There is no evidence in the possession of the board to show that the efficiency of workers has been reduced as a result of the fixing of minimum rates of wages. On the contrary, there are indications that in many cases the efficiency of the workers has been increased. The fixing of minimum rates has also resulted in better organization among the employers and in improvements in the equipment and organization of their factories."

British Coal Mines (Minimum Wage) Act. — Until 1912, the theory of the legal minimum wage in England had been that of state interference on behalf of the more helpless workers. But the winter of 1911–1912 saw great unrest among the coal miners of Britain — perhaps the strongest of organized workmen in that country. Many strikes occurred with the result that a demand was made upon Parliament for the establishment of a minimum wage by law. A compromise was effected and on March 29, 1912, Parliament passed a measure providing for the establishment of joint district boards, comprised of representatives of employers and employees with an independent chairman appointed by them. These boards have power to fix wage rates, rules and conditions of work for the twenty-two districts which have been scheduled by the Board of Trade.(1)

(1) For copy of the law, see p. 182.

RECOMMENDATIONS FOR INTERNATIONAL ACTION.

International action in regard to the establishment by law of a minimum wage was taken by the International Association for Labor Legislation in 1904 at its third biennial convention at Basle, Switzerland. This International Association, organized in 1900 and supported in part by subventions from fourteen governments with sections in fifteen different countries, further recommended at its seventh biennial meeting in September, 1912, the following general principles:

> The adoption by legislation of the principle that wage agreements for insufficient amounts or of an usurious nature should be null and void, and that the conclusion of such agreements should be subject to penalties. The meeting regards this principle as essential, but at the same time, it recognizes that the difficulties of its application are such as to prevent its adoption from being in any degree a practical solution of the problem.
>
> The delegates' meeting believes that any legislation in favor of home workers will be ineffective so long as it is not founded on minimum rates fixed by wages boards constituted according to the following principles:
>
> 1. The board shall be composed of an equal number of employers and employees, chosen generally by the parties or, if this is impossible, by bodies acting on their behalf.
>
> The president shall not be an employer or an employee and shall be elected by the board. The government shall appoint him in case of disagreement. He shall have the casting vote.
>
> 2. The minimum wage shall be so fixed that a home worker of ordinary capacity may earn as time wage a sum approximately equal to fair wages paid in factories and workshops where similar trades are carried on in the town or district. The wage must be at least high enough to ensure to the worker under normal living conditions sufficient food and healthy housing.

3. The board shall fix officially the minimum wage and publish it at once.

4. If possible the board shall establish a scale of minimum wage rates for all the different operations of the trade.

5. To the amount of wages must be added the cost of tools and materials furnished by the worker, the value of time wasted, etc.

6. The minimum wage must be paid to the worker net without any deduction in favor of employer or middleman.

7. If collective agreements exist in a trade, the minimum wage board must endeavor to extend the benefits of such collective agreements to all home workers also.

8. For operations not included in the scale named under 4 the employer must prove in each particular case coming before the board that the conditions allow the average worker to earn at least the minimum time wage.

Disputes shall be settled by the wages boards.

9. The board shall establish likewise scales of payment, and if possible minimum wages, for the apprentices in the trade, even where the apprentices are employed in workshops.

10. Every violation of the law shall constitute a penal offense in each case and in respect of each worker concerned.

11. Every trade organization and any person interested in the trade and every society qualified for the purpose may inform the board that wages paid are below the minimum wage fixed for the trade. All such persons or organizations may take legal action.

12. The minimum wages fixed by the local boards may be reviewed by a central commission of revision acting officially and without delay. This commission may modify and co-ordinate local decisions. The governments shall select the members of such commission in equal numbers from the employers and employees composing the local boards.

The delegates' meeting invites the members of Parliament belonging to the International Association to introduce, or cause to be introduced, bills corresponding to the accepted resolution.

The national sections are requested to engage in an energetic campaign in order to convince the public of the necessity of fixing minimum wages for home industries.

III. REPRESENTATIVE OPINIONS UPON THE OPERATION OF MINIMUM WAGE LAWS.

POSITION OF THE AMERICAN FEDERATION OF LABOR ON THE LEGAL MINIMUM WAGE.

From the official report of the Executive Council of the American Federation of Labor to the thirty-third annual convention, 1913:

Conclusions and Recommendations.

"From the report we have given, it will be observed that the movement for a minimum wage for women and minors has gained considerable headway in our country, and that sentiment in favor of a living wage is rapidly crystallizing. That this growth of sentiment among the people is due to the activities of the organized wage earners there can be no doubt. The organized labor movement has insisted from the beginning upon the establishment of a living wage as a minimum, and it has, through the force of organized effort, succeeded in establishing minimum wages and maximum hours of labor far superior to those prescribed by the wage boards of other countries.

"There is a marked difference, however, between the laws of other countries and the laws enacted or proposed in various states in our country. In England and in Australia authority is vested in wage boards to fix minimum wages for men workers as well as for women and minors; whereas in America these laws relate exclusively to women workers and to minors. If it were proposed in this country to vest authority in any tribunal to fix by law wages for men, Labor would protest by every means in its power. Through organization the wages of men can and will be maintained at a higher minimum than they would be if fixed by legal enactment.

"But there is a far more significant ground for opposing the establishment by law of a minimum wage for men. The principle that organization is the most potent means for a shorter workday, and for a higher standard of wages, applies to women workers equally as to men. But the fact must be recognized that

the organization of women workers constitutes a separate and more difficult problem. Women do not organize as readily or as stably as men. They are, therefore, more easily exploited. They certainly are in a greater measure than men entitled to the concern of society. A fair standard of wages, a living wage for all employed in an industry, should be the first consideration in production. None are more entitled to that standard than are the women and minors. An industry which denies to all its workers and particularly denies to its women and minors who are toilers a living wage is unfit and should not be permitted to exist.

"We recognize, of course, that in our time legislation of this character is experimental and that sufficient experience with it has not been had to enable us to secure comprehensive and accurate information as to its tendency and its effect upon wages and industrial conditions; therefore, we recommend that for the information of the labor movement the Executive Council be instructed to watch developments where such legislation is in force and to record carefully the activities, the decisions and the trend of minimum wage boards.

"We recommend that in all minimum wage laws the organized workers should see to it that provision is made for the representation on minimum wage boards of the organized wage earners, and that the laws are so changed or drawn and administered as to afford the largest measure of protection to women and minor workers — those they are designed to protect."

Economic Inequality Between Employer and Employee.

"The legislature has also recognized the fact, * * * that the proprietors of these establishments and their employees do not stand on an equality, and that their interests are, to a certain extent, conflicting. The former naturally desire to obtain as much labor as possible from their employees, while the latter are often induced by the fear of discharge to conform to regulations which their judgment, fairly exercised, would pronounce to be detrimental to their health, and strength. In other words, the proprietors lay down the rules, and the laborers are practically constrained to obey them. * * * The fact that both parties

are of full age, and competent to contract, does not necessarily deprive the state of power to interfere, where the parties do not stand upon an equality, or where the public health demands that one party to the contract shall be protected against himself."

Holden v. Hardy, 169 U. S. 366. Brief for a Proposed Minimum Wage Law, for Wisconsin, prepared under the direction of J. R. Commons.

"All the protection afforded to the laborer as debtor, creditor, wage earner, and wage bargainer in the matter of hours of labor, sanitation, and methods of payment do not avail unless he receives wages sufficient to maintain himself and those dependent upon him in the necessary comforts of life. This is partly the result of new burdens on labor on account of compulsory education, housing and sanitation, pure food laws, industrial accidents, etc. The cost of living to the laborer has been greatly increased by these measures. It is also partly the result of lessened opportunities for labor to escape from the condition of wage earner into the condition of self-employment or the employment of another, on account of disappearance of free public lands, and the large amounts of capital and credit required for business."

Brief for a Proposed Minimum Wage Law for Wisconsin, prepared under the direction of J. R. Commons.

Mr. Ord, the Victorian factory inspector, describes (Report, 1898, pp. 12, 13 and 14) "the saddest feature of the excess of labor over demand. The men are not true to themselves. * * * An old man (in the boot trade) I once asked to sign a statutory declaration as to his wages, looked me fair in the face and said, 'Mr. Ord, I'll declare anything you like.' What he meant was, I must work, and to get and keep the work I will commit perjury if you like. * * * When the same is done by young men, one begins to ask, how can Parliament protect the men against themselves? The only answer appears to me to be, provide work at remunerative wages for men able to work and old age pensions for the old workers."

The Case For and Against a Legal Minimum Wage for Sweated Workers, p. 15; The Woman's Industrial Council, London.

"The variations in the wage rates paid by different factories for the same work are frequent and great. In each occupation listed, except that of washing, the highest wage paid by the establishments at one extreme is at least double that paid by the establishment at the other extreme, and in the excepted occupation of washing, the variation is little short of 100 per cent. In grinding the variation is particularly great, the difference between 6.2 cents an hour and 15 cents an hour being, on a 58-hour per week basis, the difference between $3.60 a week and $8.70 a week."

Report on Condition of Women and Child Wage Earners in the United States. Vol. III, p. 408. Glass Industry. Senate Document No. 645, 61st Congress, 2nd Session, 1911.

A Living Wage and the Parasitic Industries.

The interpretation of "fair and reasonable" wages is given by Mr. Justice Higgins, president of the Australian Commonwealth Court of Arbitration, as follows:

"The provision for a fair and reasonable remuneration is obviously designed for the benefit of the employees in the industry; and it must be meant to secure for them something which they cannot get by the ordinary system of individual bargaining with employers. If Parliament meant that the conditions shall be such as they can get by individual bargaining — if it meant that those conditions are to be fair and reasonable which employees will accept and employers will give in contracts of service — there would have been no need for this provision. The remuneration could safely have been left to the usual, but unequal, contest, the 'higgling of the market' for labor, with the pressure for bread on one side, and the pressure for profits on the other. The standard of 'fair and reasonable' must, therefore, be something else; and I cannot think of any other standard more appropriate than the normal needs of the average employee, regarded as a human being living in a civilized community. I have invited counsel and all concerned to suggest any other standard; and they have been unable to do so. If, instead of individual bargaining, one can conceive of a collective agreement —

an agreement between all the employers in a given trade on the one side, and all the employees on the other — it seems to me that the framers of the agreement would have to take, as the first and dominant factor, the cost of living as a civilized being. If A lets B have the use of his horses, on the terms that he give them fair and reasonable treatment, I have no doubt that it is B's duty to give them proper food (sic) and water, and such shelter and rest as they need; and, as wages are the means of obtaining commodities, surely the state, in stipulating for fair and reasonable remuneration for the employees, means that the wages shall be sufficient to provide these things, and clothing, and a condition of frugal comfort estimated by current human standards. This, then, is the primary test, the test which I shall apply in ascertaining the minimum wage that can be treated as 'fair and reasonable' in the case of unskilled laborers."

Quoted by M. B. Hammond, *American Economic Review,* June, 1913, page 268.

If a man cannot maintain his enterprise without cutting down the wages which are proper to be paid to his employees — at all events, the wages which are essential for their living — it would be better that he should abandon the enterprise. This is the view independently adopted by Mr. Justice Gordon in Adelaide, and Mr. Justice Burnside in Western Australia. The former said in the Brush-makers case, "If any particular industry cannot keep going and pay its employees at least 7s. a day of eight hours, it must shut up." In the Collie Miners case, Mr. Justice Burnside refused an application of the employers to lower the minimum, and said, "If the industry cannot pay that price, it had better stop, and let some other industry absorb the workers." Both the other members of the court concurred in the latter decision. (6 W. A. Arb. Rep. 84.)

Mr. Justice Higgins of the Commonwealth Arbitration Court of Australia, quoted by M. B. Hammond, Ibid., p. 282.

"In view of these conditions, can any one say that a wage of $2.75 a day is, as a matter of law, more than a reasonable living

wage? The unit, as applied to the problem of living, is the family, not the individual, and $2.75, or even $3, a day can hardly be complacently pronounced as an unreasonable sum for supporting such a unit. * * * To hold that the payment of any sum which we cannot say is above a reasonable living wage, though it may be above the prevailing rate of wages, is a mere gratuity, would be to sacrifice the fact to a mere term. Such a holding would be an indictment of our civilization."

Malette v. City of Spokane, Supreme Court of Washington, Pacific Reporter, Feb. 2, 1914, page 508.

"Upon the question of the general policy of Parliament fixing or providing for the fixing of a minimum rate of payment for work, below which it should be illegal to employ people, your committee are of the opinion that it is quite as legitimate to establish by legislation a minimum standard of remuneration as it is to establish such a standard of sanitation, cleanliness, ventilation, air space, and hours of work. If it be said that there may be industries which cannot be carried on if such a standard of payment be enforced, it may be replied that this was said when the enactment of many of the provisions of the factory and other similar acts were proposed, and public opinion supported Parliament in deciding that, if the prognostication were an accurate one, it would be better that any trade which could not exist if such a minimum of decent and humane conditions were insisted upon should cease. Parliament, with the full approval of the nation, has practically so decided again and again, when enactments have been passed forbidding the carrying on of specified industries, unless certain minimum conditions as to health, safety and comfort are complied with."

Report from the Select Committee on Home Work to House of Commons, London, p. xiv, 1908.

Relation to Cost of Production.

(a) *Efficiency of Employer and Employee.*

"Frankly, the minimum wage for women has come. You will have to meet it. And why shouldn't you meet it? What harm

is it going to do you if every merchant has to pay the same wage? It becomes precisely as other expense accounts. Hitherto the law of supply and demand fixed the wage schedule. Henceforth it will be efficiency and if the cost of selling is increased, the purchaser is the one who will pay.

"An eight-hour law for employees is pending in some states. When the law first came into our state, we thought it was very drastic. Time has proved the wisdom of this law. Merchants have adapted themselves to it. Business proceeds with ever-increasing prosperity and we are scarcely conscious of ever having worked without an eight-hour law in effect."

Mr. Arthur Letts, of Los Angeles, president Retail Dry Goods Association. *New York Times,* February 12, 1914.

"It is interesting to note that many of the employers admit that the result of the Trade Board award has been already to call their attention to many instances of waste and leakage in their establishments. While the rate was in partial operation cardboard factories have been carefully overhauled, and a new tidiness and efficiency have entered into them."

Annual Report of the National Anti-Sweating League, London, 1913, p. 7.

"Many people thought an increase in price must follow a rise in wages. Well, in Melbourne the trade boards had raised wages, sometimes by 50 per cent. and 70 per cent. beyond what the women had been getting before, and he had satisfied himself that there was no increase in the price of the furnished article at all as a consequence of the rise in prices. Yet the employers were not bankrupt. The explanation was that when the higher wages had to be paid the industry was carried on in a more efficient way than when the employer paid low wages. For the increased wages they paid they saw to it that they got more efficient work. Thus the labor was not more expensive to the employer, although the workers received more."

Sidney Webb, National Conference on the Prevention of Destitution, p. 425, 1912.

"And it is difficult to believe that the enforcement of a legal minimum wage in all these different industries, employing 110,000 persons (being, with their families, more than a quarter of the entire population of the state), has interfered with the profitableness of industry, when the number of factories has increased, in the sixteen years, by no less than 60 per cent., and the numbers of workers in them have more than doubled. Certainly, no statesman, no economist, no political party nor any responsible newspaper of Victoria, however much a critic of details, ever dreams now of undoing the Minimum Wage Law itself."

Sidney Webb, *Journal of Political Economy,* December, 1912, page 976.

"The unenlightened employers who have opposed these measures persistently asserted that the new restrictions or expenses imposed upon their business would destroy their profits, cripple their competition with foreigners and close their mills. The laws were passed, the burdens were imposed, no such disaster as was predicted actually occurred. Why not? Well, partly because the improved safety, and sanitation, the shorter hours, and other betterment in the condition of the employees raised the efficiency of labor, but partly also because the fear of reduced profits operated upon the employers as a stimulus to improved economy in the conduct of their business. A rise in the wage bill or in other expenses led to the invention or adoption of improved machinery, the utilization of hitherto wasted products, or other improvements either in the technique or in the administration of the business. A trade dependent for its economy upon abundance of cheap, low-grade labor is notoriously an unprogressive trade; an enforced rise of wages will commonly be a spur to progress."

John A. Hobson, before the National Anti-Sweating League, London, 1907. Report of Proceedings, page 55.

"The fact remains that in several trades in which wages have tended upwards there is much testimony to the fact that neither cost nor price have been similarly affected, and in some instances

it has been admitted that they have tended in the opposite direction." The Melbourne manager of one of the largest importing and manufacturing firms in Australia is quoted as saying: "They (the special boards) have made no difference in business and no traceable difference in prices." Another employer in the clothing trade gave an experience of several years during which, while wages had increased 20 per cent., costs had diminished 35 per cent. In the replies furnished to the questions set forth in Form B of Mr. Aves' report, twenty-eight persons state that they are unable to mention a single case in which special boards have led to an increase in price, while nine only answer doubtfully or in the opposite sense. The advantage of a greater equality of conditions on both sides, secured by a minimum rate, appears to be strongly felt in Victoria, and the fact that the honest employer is, under a special board, placed on an equality with the sweater is forcibly insisted on. "This point is mentioned repeatedly." So cautious and careful a collector of evidence as Mr. Aves feels constrained to add that "from this point of view, which is reflected in connection with trades of many descriptions — from engineering down to white work — the special boards may almost be regarded as having won general approval."

Miss Constance Smith in The Case for Wages Boards, London, National Anti-Sweating League; quotations from Mr. Ernest Aves' report on the Australasian systems.

"To the wage earners as a class it is of the utmost importance that the other factors in production — capital and brain power — should always be working at their highest possible efficiency, in order that the common product, on which wages no less than profits depend, may be as large as possible. The enforcement of the common rule on all establishments concentrates the pressure of competition on the brains of the employers, and keeps them always on the stretch. 'Mankind,' says Emerson, 'is as lazy as it dares to be', and so long as an employer can meet the pressure of the wholesale trader, or of foreign competition, by nibbling at wages or 'cribbing time' he is not likely to undertake the 'intolerable toil of thought' that would be required to discover

a genuine improvement in the productive process, or even, as Babbage candidly admits, to introduce improvements that have already been invented."

Sidney Webb, *Journal of Political Economy,* December, 1912, page 983.

"From the point of view of the economist, concerned to secure the highest efficiency of the national industry, it must be counted to the credit of the legal minimum wage that it compels the employer, in his choice of men to fill vacancies, seeing that he cannot get a 'cheap hand' for the price that he has to pay, to be always striving to exact greater strength and skill, a higher standard of sobriety and regular attendance, and a superior capacity for responsibility and initiative. This is exactly what has happened in Victoria under the Minimum Wage Law, as it has happened in Great Britain where a definitely fixed minimum has been substituted for the irregular competitive rates, which, in the absence of a common rule, the sharp or 'cutting' employer can enforce on the weakest or most necessitous workers. Thus, a legal minimum wage positively increases the productivity of the nation's industry, by ensuring that the surplus of unemployed workmen shall be exclusively the least efficient workmen; or, to put it in another way, by ensuring that all the situations shall be filled by the most efficient operatives who are available. This is plainly not the case under 'free competition' where there is no fixed minimum."

Sidney Webb, *Journal of Political Economy,* December, 1912, page 979.

"But it may be remarked, in passing, that it is by no means the general consensus of informed opinion that either maximum time or minimum wage laws, not exceeding a reasonable living wage, when fairly tried out, will have the necessary effect of increasing the cost of work to any material extent, especially when applied only to public work. The evidence shows that there is no scarcity of laborers in Spokane, and it would seem that the shorter hours of labor and higher daily pay would necessarily attract many of them. The city and those doing its work

by contract would thus have the choice, and could select the more efficient laborers. This would unquestionably tend to counteract in efficiency the added cost caused by shorter hours and higher pay. Contractors would, in time, learn this fact and make their calculations and bids accordingly."

Malette v. City of Spokane, Supreme Court of Washington, Pacific Reporter, February 2, 1914, page 504.

"We arrive, therefore, at the unexpected result that the enforcement of definite minimum conditions of employment as compared with a state of absolute freedom to the employer to do as he likes, positively stimulates the invention and adoption of new processes of manufacture. This is no new paradox, but has been repeatedly remarked by the opponents of trade unionism. Thus Babbage, in 1832, described in detail how the invention and adoption of new methods of forging and welding gun barrels was directly caused by the combined insistence on better conditions of employment by all the workmen engaged in the old process.

'In this difficulty (he says) the contractors resorted to a mode of welding the gun barrel according to a plan for which a patent had been taken out by them some years before the event. It had not then succeeded so well as to come into general use, *in consequence of the cheapness of the usual mode of welding by hand labor,* combined with some other difficulties with which the patentee had to contend. But the *stimulus produced by the combination* of the workmen for this advance of wages induced him to make a few trials, and he was enabled to introduce such a facility in welding gun barrels by roller, and such perfection in the work itself, that in all probability very few will in future be welded by hand labor. Similar examples (continues Babbage) must have presented themselves to those who are familiar with the details of our manufactories, but these are sufficient to illustrate one of the results of combinations. * * * It is quite evident that they have all this tendency; it is also certain that considerable stimulus must be applied to induce a man to contrive a new and expensive process; and *that in both these cases unless the fear of pecuniary loss had acted powerfully the improvement would not have been made.*'"

Sidney Webb, *Journal of Political Economy,* December, 1912, page 982.

(b) *Employees Unable to Earn the Minimum Rate.*

"Thus, all the most capable and best conducted would certainly obtain regular situations. But this concentration of employment would, it must be admitted, imply the total exclusion of others, who might, in the absence of regulation, have 'picked up' some sort of partial livelihood. In so far as the persons thus rendered permanently unemployed consisted merely of children removed from industrial work to the schoolroom, few (and certainly no economist) would doubt that the change would be wholly advantageous to national productivity and economic efficiency. And there are many who would welcome a reorganization of industry, which, by concentrating employment exclusively among those in regular attendance, would tend automatically to exclude from wage labor, and to set free for domestic duties, an ever-increasing proportion of the women having young children to attend to. There would still remain to be considered the remnant who, notwithstanding the increased demand for adult male labor and independent female labor, proved to be incapable of earning the legal minimum in any capacity whatsoever. We should, in fact, be brought face to face with the problem, not of the unemployed but of the unemployable; those whom no employer would employ at the legal minimum even if trade was booming and he could get nobody else.

"The unemployable, to put it bluntly, do not and cannot under any circumstances earn their keep. What we have to do with them is to see that as few as possible of them are produced; that such of them as can be cured are (almost at whatever cost) treated so as promptly to remove their incapacity, and that the remnant are provided for at the public expense, as wisely, as humanely, and inexpensively as possible. * * * But, of all ways of dealing with these unfortunate parasites, the most ruinous to the community is to allow them unrestrainedly to compete as wage earners for situations."

Sidney Webb, *Journal of Political Economy,* December, 1912, page 992.

"It is undoubtedly true that a determination in favor of minimum wage regulations does commit organized society to a more

responsible attitude toward the whole labor problem, than any American state has yet adopted. For one, I welcome this prospect and believe that the more serious attention to the questions of unemployment and its remedies, of industrial education and vocational guidance, and of provision for indigent widows and orphans, for the superannuated and for defectives, which it must entail, will prove only advantageous."

Henry R. Seager, *American Labor Legislation Review,* Vol. III, No. 1, page 89.

THE MINIMUM WAGE AS A PUBLIC POLICY.

"Just as it is against public policy to allow an employer to engage a woman to work excessive hours or under insanitary conditions, so it is equally against public policy to permit him to engage her for wages insufficient to provide the food and shelter without which she cannot continue in health. Once we begin to prescribe the minimum conditions under which an employer should be permitted to open a factory, there is no logical distinction to be drawn between the several clauses of the wage contract. From the point of view of the employer, one way of increasing his expenses is the same as another, while to the economist and the statesman, concerned with the permanent efficiency of industry and the maintenance of national health, adequate food is at least as important as reasonable hours or good drainage. To be completely effectual the same policy will, therefore, have to be applied to wages. Thus, to the economist, the enforcement of a legal minimum wage appears but as the latest of the long series of common rules, which experience has proved to be (*a*) necessary to prevent national degradation; and (*b*) positively advantageous to industrial efficiency."

Sidney Webb, *Journal of Political Economy,* December, 1912, pages 988 and 989.

"The eight-hour law manifests a public policy on the part of the state to better the condition of laborers employed upon public work. The purpose of the minimum wage ordinance is precisely the same, and the policy which sustains the one warrants the other. We fail to find wherein the ordinance in question is con-

trary to any public policy of the state, either as declared or implied in any statutory enactment. On the contrary, it is in accord with the policy which underlies the eight-hour law.

Malette v. City of Spokane, Supreme Court of Washington, Pacific Reporter, February 2, 1914, page 502.

"The idea underlying the ultimately developed sentiment of the people upon that subject (exemption) * * * is that the citizen is an essential elementary constituent of the state; that to preserve the state the citizen must be protected; that to live, he must have the means of living; to act and to be a citizen he must be free to act and to have somewhat wherewith to act, and thus to be competent to the performance of his high functions as such. Hence it would seem, as no doubt it was, a matter of the gravest state policy to invest the citizen with, and to secure to him, those essential perquisites, without which the state could not demand of him at all times his instant service and devoted allegiance."

Maxwell v. Reed, 7 Wis. 594. Brief for a Proposed Minimum Wage Law for Wisconsin, prepared under the direction of J. R. Commons.

"A continually fluctuating labor market is a heavy burden on the fair employer in manufacturing. He is menaced by the undercutting of his wage rates by his rivals in business, by strikes of his employees, by the uncertainties of the future, by alterations in costs. His losses besides are those of a citizen obliged to help support those of his competitors not paying a living wage and whose employees are hence from time to time thrown on the community for assistance. We cannot but conclude that the fair employer must in the end agree with us on the desirability and feasibility of the minimum wage as here advocated."

John Mitchell, in The Wage-Earner and His Problem, p. 103.

"First, let us notice that the act of 1896 (like the British Trade Boards Act of 1909), was only a temporary one. It has during the past sixteen years been incessantly discussed; it has been repeatedly considered by the Legislature; and, as a result, it has been five successive times renewed by consent of both

Houses. Can it be that all this is a mistake? Still more convincing, however, are the continuous demands from the other trades, as they witnessed the actual results of the legal minimum wage where it was in force, to be brought under the same law.

"Now, in this remarkable popular demonstration of the success of the act, tested by the not inconsiderable period of sixteen years, extending over years of relative trade depression as well as over years of boom, some features deserve mention. First, the extensions have frequently — indeed, it may be said usually — taken place at the request, or with the willing acquiescence, of the employers in a trade, as well as of the wage earners. What the employers appreciate is, as they have themselves told me, the very fact that the minimum wage is fixed by law and therefore really forced on all employers: The security that the act accordingly gives them against being undercut by the dishonest or disloyal competitors, who simply will not (in Victoria as in the Port of London) adhere to the common rules agreed upon by collective bargaining. We must notice, too, that the application of the law has been demanded by skilled trades as well as by those having no unions at all. One is tempted, indeed, to believe that little remains now outside its scope except the agricultural occupations and domestic service."

Sidney Webb, *Journal of Political Economy,* December, 1912, pages 974, 975 and 976.

"It is now seen that, in carrying his successive factory acts, for one class after another, laying down a legal minimum for one condition after another of the wage contract, Lord Shaftsbury, like the trade unionists whom he feared, was 'building better than he knew.' What was at first empirical has become scientific. 'And so the factory acts,' to use the words of the late Duke of Argyll, uttered as long ago as 1867, 'instead of being excused as exceptional, and pleaded for as justified only under extraordinary conditions, ought to be recognized as in truth the first legislative recognition of a great natural law * * * destined to claim for itself wider and wider application.'"

Sidney Webb, *Journal of Political Economy,* December, 1912, page 998.

"A minimum wage standard is essential for the protection of labor, whether it be under competitive conditions or in the employ of a trust or municipality. We have seen that this is true in the case of thousands of non-English-speaking immigrants at Lawrence and elsewhere. The real question at issue is: Shall this minimum wage be established by law or by labor organizations? It may be best for legislation to avoid this field but, if so, we may look for just such conditions as have been found at Lawrence and Little Falls. For the most oppressed laborers, who are not even able to organize, it would seem that legislation might make a beginning."

John R. Commons, *American Labor Legislation Review,* Vol. III, No. 1, page 92.

"In Victoria and New Zealand, the only states which have had long enough experience with the legal minimum wage to judge adequately of its results, the desirability and necessity of its maintenance have ceased to be seriously questioned. The question which is chiefly discussed in Australia is whether the wages board system or the compulsory arbitration system is the best method of securing this result. In Victoria, where employers for years waged a bitter fight against the wages board system, opposition on their part to the principle of the system seems to have died out, however serious may be their complaints against particular features of the act, against certain determinations of the boards, or against the administration of the act by the chief factory inspector's department. And, lest this favorable opinion of the success of the system be thought simply the expression of a partisan investigator, let me say that the presidents and secretaries of the two strong employers' organizations in Melbourne, the Victorian Chamber of Manufactures and the Victorian Employers' Association, which formerly led the attack on the wages board system, told me that opposition on the part of their members to the wages board had ceased and that they had no wish to see the system abandoned. The same opinion was expressed by all the employers with whom I talked."

M. B. Hammond, *American Labor Legislation Review,* Vol. III, No. 1, pages 112 and 113.

"What the advocates of the minimum wage idea forget is, that the United States is divided into forty-eight separate, competing countries with widely varying conditions of employment and wage standards, Massachusetts being among the states which head the list in high wages, short hours, and favorable factory conditions. For any one of these high class states to set a legal minimum wage will be to open the door to a flood of workers from other states who will expect employment at higher wages. The immigration of aliens from Europe, unless absolutely restricted, will swell this stream of labor, and that Massachusetts could make headway against this inflow is inconceivable. The legal minimum wage will, therefore, drive the slow, the inefficient and the infirm worker out of industry altogether into pauperism, and no sophistical explanation that does not explain will overcome this objection."

Edward F. McSweeney, *American Labor Legislation Review,* Vol. III, No. 1 ,page 98.

"I wish, however, to refer to Australasian experience as affording an answer to certain questions which have arisen in this morning's discussion. It has been said that a wage board would be unable to accomplish much, if anything, in one of our American states, because to set up a living wage as a minimum in any industry in which interstate competition existed would result in driving that industry to another state. Such has not been the experience in Victoria, where for years the wages boards had to meet this same difficulty. It simply meant that interstate competition was one of the conditions which the boards had to consider in fixing wages in the industries with which they were dealing. Sometimes a board would be unable to fix a minimum as high as it would have been willing to do if the interstate competition had not existed, but this did not mean that the board could do nothing. For the chief service to be rendered by the board is the bringing up of wages to the level now maintained by the best employers in the trade. In spite of keen interstate competition, there are many employers in any trade or industry who, in the absence of any legal minimum wage, pay fair and reasonable wages to their employees. This was amply illustrated by

the wage statistics gathered and published by the Massachusetts minimum wage commission. Wages boards in Australia have seldom raised wages above those which the best employers in the trade were already paying. They have simply forced the underpaying employer up to this higher level."

George G. Groat, *American Labor Legislation Review*, Vol. III, No. 1, page 111.

CONSTITUTIONAL ASPECTS.

"It may be said in a general way that the police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage and preponderant opinion to be greatly and immediately necessary to the public welfare."

Noble State Bank v. Haskell, 219 U. S. 104.

"The assumption that no such proposal as that to regulate wages in private employments can be enforced through the courts is premature. It is first indispensable, however, that the American people should be convinced that some action for the protection of the American standard of living is necessary and that the proposed remedy is appropriate. Whereas the Illinois court of last resort once refused to enforce a law regulating the hours of labor of women, and then in the light of further reflection and a more thorough acquaintance with the actual conditions of employment in the state (in the second Ritchie case) reversed its earlier decision, so social reformers who can prove their case for the minimum wage may expect equally favorable consideration from the courts. There is no essential difference, so far as constitutional status is concerned, between the legal regulation of the hours of labor and the legal regulation of wages. The constitutionality of both alike is solely a matter of producing sufficient evidence showing the necessity and appropriateness of the proposed legislation."

Arthur N. Holcombe, *American Economic Review*, p. 29, 1912.

"The proposal is opposed on the ground that it is contrary to the spirit of American institutions and that it leads logically to

socialism. That it involves a pretty complete break with the *laissez faire* theory of government is, of course, true; but that it differs in anything but degree from the legal regulation of safety and sanitary conditions and hours of employment, I am unable to see. The spirit of American institutions, as interpreted by the Supreme Court of the United States, has proved itself sufficiently broad to embrace hour regulations for women and children, and even for men in hazardous employments. If the need and efficiency of minimum wage regulations can be demonstrated, I believe that they, too, will be recognized as within the scope of that broad power of police, through which individual liberty may be curbed for the sake of the common welfare. From one point of view, any extension of the functions of government in the industrial field, leads in the direction of socialism, but there is certainly quite as much logic in the contention that this and other needed social reforms tend to make outright socialism undesirable and unnecessary, as in the other view that the adoption of any policy that socialists happen to advocate must lead to socialism. Moreover, most thoughtful Americans have ceased to find in the phrase 'socialistic' any very clear or convincing reason either for or against a proposed policy."

Henry R. Seager, *American Labor Legislation Review*, Vol. III, No. 1, page 88.

"It is too plain for argument that every maximum hours law prescribing less than the number of hours usually constituting a day's labor, when coupled with a provision for minimum pay not less than the current rate for a day's labor, is a minimum wage law pure and simple, prescribing a wage above the current rate for the same class of labor. Every objection, therefore, which can be logically or legally raised against an undisguised minimum wage law, can be advanced, just as logically and just as legally, against the usual eight-hour law."

Malette v. City of Spokane, Supreme Court of Washington, Pacific Reporter, February 2, 1914, page 499.

"If it is within the power of the Legislature to regulate the maximum hours of labor for women employed in laundries, which

service is not necessarily an occupation which in itself is detrimental to health, reasoning by analogy it would follow as a reasonable conclusion that such regulation might be lawfully applied to all occupations of women, and, more certainly, the occupations of minors. Assuming this proposition to be true when applied to the regulation of the maximum hours of labor, it would also be true when applied to the same class limiting the minimum wage, unless there is a sound reason that distinguishes the one from the other.

"To make effective a law fixing maximum hours of labor, it may become necessary to have a law fixing a minimum wage. The two are inseparably linked together. This is especially true in the case of the employment of women and children, for the reason that the occupations in which they may be usefully employed are necessarily limited, while the number seeking such employment is necessarily large. The two laws are necessary complements of each other, and go to the same effect, and to secure the same end. If the law regulating the number of hours of labor for women and minors is within the police power and constitutional, a law fixing a minimum wage is also within the police power.

"The purpose of the act in limiting the maximum hours of labor and the minimum wage for women, is evidently the same, viz., to preserve and conserve their health and morals. Is the preservation and conservation of the health and morals of women workers a public concern, or is it merely a matter that concerns the individuals employed? If the enactment is for the public health, peace, morality and general welfare it falls within the police power of the state to regulate. The complexity and intimate relations of our present day civilization are such that there is a necessary dependency of the public welfare upon the health, morality and vigor of our women and children, when considered from physiological, sociological and moral standpoints. The women are and are to be the mothers of our future citizens, and the children of to-day will be the citizens of to-morrow and when any considerable number of them are employed at wages which reduce them to beggary or denies a sufficient compensation to preserve health, the insufficiency of such wages becomes a powerful factor

in determining the social, moral and physical status of the body politic and is a matter of public concern."

Opinion of Judge T. J. Cleeton, in the case of Frank C. Stettler vs. Edwin V. O'Hara, Bertha Moores, and Amedee M. Smith, constituting the Industrial Welfare Commission of the State of Oregon. (Oregon Circuit Court, County of Multnomah, November 7, 1913.

LAW A PROGRESSIVE SCIENCE AND ADAPTABLE TO NEW CONDITIONS.

29 Wash. 602: "Law is, or ought to be, a progressive science. While the principles of justice are immutable, changing conditions of society and the evolution of employment make a change in the application of principles absolutely necessary to an intelligent administration of government. Transportation companies are now restricted, where a few years ago they claimed the right to transact their business exactly as it suited their private interests. * * *"

Slaughter House Cases, 16 Wall. 97: "Law is, to a certain extent, a progressive science * * * certain other classes of persons, particularly those engaged in dangerous or unhealthful occupations, have been found to be in need of additional protection. * * * Law will be forced to adapt itself to new conditions of society, and particularly to new relations between employers and employees as they arise."

Brief for a Proposed Wage Law for Wisconsin, prepared under the direction of J. R. Commons.

APPENDIX A.

DECISION OF OREGON SUPREME COURT UPHOLDING MINIMUM WAGE LAW.

IN THE SUPREME COURT OF THE STATE OF OREGON
IN BANC.

FRANK C. STETTLER,
Appellant,
vs.
EDWIN V. O'HARA, BERTHA MOORES and AMEDEE M. SMITH, constituting the Industrial Welfare Commission of the State of Oregon,
Respondents.

Affirmed March 17, 1914.

Appeal from the Circuit Court for Multnomah county. Hon. T. J. Cleeton, Judge. Argued and submitted, February 9, 1914.

STATEMENT.

This is a suit instituted by the appellant, plaintiff below, against the respondents, defendants below, to restrain the defendants, who constitute the Industrial Welfare Commission, from enforcing a certain order passed by such Commission.

The plaintiff is engaged in the manufacture of paper boxes in the city of Portland, and on the 10th day of September,

1913, said Commission adopted an order whereby it is required that no person operating any manufacturing establishment in the city of Portland shall employ any women in such establishment for more than nine hours a day or employ any experienced adult women worker at a weekly wage of less than $8.64.(1).

DECISION.

On February 17, 1913, the legislative assembly passed an act entitled:

> "To protect the lives and health and morals of women and minor workers, and to establish an Industrial Welfare Commission and define its powers and duties, and to provide for the fixing of minimum wages and maximum hours and standard conditions of labor for such workers, and to provide penalties for violation of this act."

The title is followed by a declaration of the evils that it is desired to remedy as follows:

> "Whereas, the welfare of the state of Oregon requires that women and minors should be protected from conditions of labor which have a pernicious effect on their health and morals, and inadequate wages and unduly long hours and unsanitary conditions of labor have such a pernicious effect; therefore, be it enacted by the people of the state of Oregon."

The first section provides:

> "It shall be unlawful to employ women or minors in any occupation within the state of Oregon for unreasonably long hours; and it shall be unlawful to employ women or minors in any occupation within the state of Oregon under such surroundings or conditions — sanitary or otherwise — as may be detrimental to their health or morals; and it shall be unlawful to employ women in any occupation within the state of Oregon for wages which are inadequate to supply the necessary cost of living, and to maintain them in health; and it shall be unlawful to employ minors in any occupation within the state of Oregon for unreasonably low wages."

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(1) Taken from appellant's brief.

Then follows the creation of the commission under the name of the "Industrial Welfare Commission," to be appointed by the Governor, and provisions defining its duties. Section 4 provides:

> "Said commission is hereby authorized and empowered to ascertain and declare, in the manner hereinafter provided, the following things: (a) Standards of hours of employment for women or for minors and what are unreasonably long hours for women or for minors in any occupation within the state of Oregon; (b) standards of conditions of labor for women or for minors in any occupation within the state of Oregon and what surroundings or conditions — sanitary or otherwise — are detrimental to the health or morals of women or of minors in any such occupation; (c) standards of minimum wages for women in any occupation within the state of Oregon and what wages are inadequate to supply the necessary cost of living to any such women workers and to maintain them in good health; and (d) standards of minimum wages for minors in any occupation within the state of Oregon and what wages are unreasonably low for any such minor workers."

Section 8 provides among other things that the

> "Commission may call and convene a conference for the purpose and with the powers of considering and inquiring into and reporting on the subject investigated by said commission and submitted by it to such conference. Such conference shall be composed of not more than three representatives of the employers in said occupation and of an equal number of the representatives of the employees in said occupation and of not more than three disinterested persons representing the public and of one or more commissioners,"

and the duties of such conference, which shall report the result of its investigations with recommendations to the commission. Section 9 provides that upon the receipt of the report from the conference, and the approval of its recommendations, the commission may make and render such order as may be proper or necessary to adopt such recommendations and to carry the same into

effect and require all employers in the occupation affected thereby to observe and comply with such recommendations and said order. The act contains other provisions giving the commission and conference power and authority to investigate the matters being considered, and that from the matters so determined by the commission there shall be no appeal on any question of fact; but that there shall be a right of appeal from the commission to the Circuit Court from any ruling or holding on a question of law included or embodied in any decision or order by the commission, and from the Circuit Court to the Supreme Court. The defendants were duly appointed by the Governor as such commission. It thereafter called a conference as provided, which reported to the commission, making certain recommendations, which were approved; and based upon such recommendations it made the following order:

> "The Industrial Welfare Commission of the state of Oregon hereby orders that no person, firm, corporation, or association owning or operating any manufacturing establishment in the city of Portland, Oregon, shall employ women in said establishment for more than nine hours a day, or fifty* hours a week; or fix, allow, or permit for any woman employee in said establishment a noon lunch period of less than forty-five minutes in length; or employ any experienced adult woman worker, paid by time rates of payment, in said establishment at a weekly wage of less than $8.64, any lesser amount being hereby declared inadequate to supply the necessary cost of living to such woman factory workers and to maintain them in health."

The amended complaint sets out all these matters in greater detail, to which the defendants demurred on various grounds, the first of which raises the questions here discussed, namely, that

> "it does not state facts showing that the act and order complained of is an unreasonable exercise of the police power of the state."

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* Should read "fifty-four" — Error in pleadings.

The demurrer was sustained, and the plaintiff elected to stand on the amended complaint. Judgment was rendered dismissing the suit, and the plaintiff appeals.

EAKIN, J.:

The purpose of this suit is to have determined judicially whether either the fourteenth amendment of the federal constitution, or Section 20, Article I, of the Oregon Constitution is an inhibition against the regulation by the legislature of the hours of labor during which women may be employed in any mechanical or manufacturing establishment, mercantile occupation, or other employment requiring continuous physical labor; or against the establishment of a minimum wage to be paid therefor. Some features of these questions are practically new in the courts of this country. There have been some utterances by the courts of last resort to the effect that it is such an inhibition. Some of these cases relate exclusively to the limitation of the hours of employment, others to the wages to be paid on contracts with the state or municipality; but the cases so holding are based largely on the fact that such regulation deprives the individual of liberty and property without due process of law, namely, that it is not within the police power of the state and violates the liberty of contract. The first case holding such a statute unconstitutional is Lochner vs. New York, 198 U. S. 45, Sup. Ct. 539, 49 L. Ed. 937, annotated in 3 Ann. Cas. 1133. A similar case is Ritchie vs. People, 155 Ill. 98, 40 N. E. 454, 29 L. R. A. 79, 46 Am. St. Rep. 315. In the former case, in the Appellate Division of the State Court two of five judges were in favor of upholding the law; in the Supreme Court of the State three of the seven judges were so minded; and in the United States Court four of the nine judges favored such a disposition of the case. The opinions in those decisions are based upon different theories, showing that judicial opinion has not reached any settled or stable basis upon which to rest. It has only been during the last few years that the matter of legislation upon the question of the limitation of hours of labor has been agitated in legislative bodies or in the courts. The decisions of the courts have been based upon first impression and may be liable to fluc-

tuation from one extreme to the other before the extent of the power of legislation on these questions is finally settled. The entry of woman into the realm of many of the employments formerly filled by man, in which she attempts to compete with him, is a recent innovation; and it has created a condition which the legislatures have deemed it their duty to investigate and to some extent govern. It is conceded by all students of the subject, and they are many and their writings extensive, that woman's physical structure and her position in the economy of the race renders her incapable of competing with man either in strength or endurance. This is well-emphasized by Justice Brewer in Muller vs. Oregon, 208 U. S. 412, 28 Sup. Ct. 324, 52 L. Ed. 13 Ann. Cas. 957, an appeal from Oregon questioning the constitutionality of the law fixing the maximum hours of labor for women, where he says:

> "That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity, continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical wellbeing of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race. Still, again, history discloses the fact that woman has always been dependent upon man. He established his control at the outset by superior physical strength, and this control in various forms, with diminishing intensity, has continued to the present. As minors, though not to the same extent, she has been looked upon in the courts as needing especial care that her rights may be preserved. * * * Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained. It is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him. * * * that her phys-

ical structure and a proper discharge of her maternal functions — having in view not merely her own health, but the wellbeing of the race — justify legislation to protect her from the greed as well as the passion of man. The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words cannot make this plainer. * * * This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her."

The conditions mentioned in the above quotation lie at the foundation of all legislation attempted for the amelioration of woman's condition in her struggle for subsistence. In many states as well as in foreign countries special study and investigation have been given to this question as to the effect of long hours of labor and inadequate wages upon the health, morals, and welfare of woman, with a view to remedy the evil results as far as possible. There seems to be a very strong and growing sentiment throughout the land, and a demand that something must be done by law to counteract the evil effects of these conditions. In the case of Lochner vs. New York, *supra,* in which the constitutionality of the labor law of New York, limiting the hours of labor in bakeries, is questioned Justice Peckham wrote the opinion holding the law invalid. Justice Harlan filed a dissenting opnion which should not be overlooked as the parts here quoted are general statements of the law recognized by judicial opinion and not in conflict with the main opinion. Justices White and Day concurred therein; Justice Holmes also dissenting. In that opinion it is said:

"While this court has not attempted to mark the precise boundaries of what is called the police power of the state, the existence of the power has been uniformly recognized, both by the federal and state courts."

In quoting from Patterson vs. Kentucky, 97 U. S. 501, he says:

"It (this court) has nevertheless with marked distinctness and uniformity, recognized the necessity, growing out of the

> fundamental conditions of civil society, of upholding state police regulations which were enacted in good faith, and had appropriate and direct connection with that protection of life, health and property which each state owes to her citizens. But neither the (14th) amendment — broad and comprehensive as it is — nor any other amendment was designed to interfere with the power of the state, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education, and good order of the people. * * * Granting then that there is a liberty of contract which cannot be violated even under the sanction of direct legislative enactment, but assuming, as according to settled law we may assume, that such liberty of contract is subject to such regulations as the state may reasonably prescribe for the common good and wellbeing of society, what are the conditions under which the judiciary may declare such regulations to be in excess of legislative authority and void? Upon this point there is no room for dispute; for, the rule is universal that a legislative enactment, federal or state, is never to be disregarded or held invalid unless it be, beyond question, plainly and palpably in excess of legislative power."

The opinion of the justices who hold the maximum hours laws unconstitutional are based largely upon the fact that they violate the liberty of contract; holding that such acts are not within the fair meaning of the term "a health law," but are not an illegal interference with the rights of the individual and are not within the police power of the legislature to enact. The right of the state to prescribe the number of hours one may work or be employed on public works is generally upheld for the reason that the state may determine for itself what shall constitute a day's work of a laborer on public works, which violates no individual right of property or liberty of contract. Penn. Bridge Co. vs. United States, 29 App. Cas. (D. C.) 452, 10 Ann. Cas. 720; Byars vs. State, 2 Okla. Crim. 481, 102 Pac. 804, 22 Ann. Cas. 765; People vs. Chicago, 256 Ill. 558, 100 N. E. 194, 30 Ann. Cas. 304. So it is held that work underground or in a smelter is unhealthy and may be regulated in ex parte Boyce, 27 Nev. 299, 75 Pac. 1, 65 L. R. A. 47, 1

Ann. Cas. 66; Holden vs. Hardy, 169 U. S. 366; ex parte Kair, 28 Nev. 127, 425, 80 Pac. 463, 82 Pac. 453, 6 Ann. Cas. 893. In the Lochner case, *supra,* employment in a bakery and candy factory is held not to be unhealthy, and that a statute limiting the hours of labor therein is void. A statute fixing the hours of labor for women is held valid in State vs. Muller, 48 Or. 252, 85 Pac. 855, 120 Am. St. Rep. 205, annotated in 11 Ann. Cas. 88, which case is affirmed in 208 U. S. 412 and annotated in 13 Ann. Cas. 957. In Ritchie vs. People, *supra,* the law limiting hours of work for women was held void. However in Ritchie & Co. vs. Wayman, 244 Ill. 509, 91 N. E. 695, 27 L. R. A. (N. S.) 994, such a law was held valid as within the police power of the legislature; and, again, in People vs. Chicago, *supra,* and in People vs. Elerding, 254 Ill. 579, 92 N. E. 982, the law was upheld. Thus it appears that Illinois has wholly receded from the decision in the case of Ritchie vs. People, *supra,* and it may be now considered as established that a statute which limits the hours of labor of certain occupations or for certain classes of persons for the protection of the health and welfare of society is within the police power of the state. Commonwealth vs. Riley, 210 Mass. 387, 97 N. E. 367, 25 Ann. Cas. 388; State vs. Somerville, 67 Wn. 638, 122 Pac. 324. It was said in People vs. Elerding, *supra,* wherein a statute limiting the working hours per day for males was held unconstitutional as a valid exercise of the police power:

> "That under the police power of the state the general assembly may enact legislation to prohibit all things hurtful to the health, welfare, and safety of society, even though the prohibition invade the right of liberty or property of the individual, is too well-settled to require discussion or the citation of authority. * * * While in its last analysis it is a question whether an act is a proper exercise of the police power, it is the province of the legislature to determine when an exigency exists calling for the exercise of this power. When are legislative authority has decided an exigency exists calling for the exercise of the power and has adopted an act to meet the emergency, the presumption is that it is a valid enactment, and the courts will sustain it unless it appears, be-

yond any reasonable doubt, that it is in violation of some constitutional limitation."

On the same subject it is said in Lochner vs. New York, *supra,* quoting from Jacobson vs. Massachusetts, 197 U. S. 11, 25 Sup. Ct. 358, 48 L. Ed. 643, relating to the vaccination statute, that

> "the power of the courts to review legislative action in respect of a matter affecting the general welfare exists only 'when that which the legislature has done comes within the rule that if a statute, purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is beyond all question a plain, palpable invasion of rights secured by the fundamental law.' * * * If there be doubt as to the validity of the statute, that doubt must therefore be resolved in favor of its validity, and the courts must keep their hands off, leaving the legislature to meet the responsibility for unwise legislation."

In re Spencer, 149 Cal. 396, 9 Ann. Cas. 1105, it is said:

> "The presumption always is that an act of the legislature is constitutional, and when this depends upon the existence or non-existence of some fact, or state of facts, the determination thereof is primarily for the legislature, and the courts will acquiesce in its decision, unless the error clearly appears."

The legislative power of the state is not derived by grant of the constitution, but exists as to all subjects not inhibited by the state or federal constitution.

There is only one federal inhibition urged against this statute, namely:

> "No state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, or deny to any person within its jurisdiction an equal protection of the law."

Fourteenth amendment. It may probably be conceded that the public welfare statute in question here violates this clause as abridging privileges of citizens if it cannot be justified as a police measure; and we will assume, without entering into a discussion of that question or citation of authorities, that provisions enacted by the state under its police power that have for their purpose the protection or betterment of the public health, morals, peace, and welfare, and reasonably tend to that end, are within the power of the state notwithstanding that they may apparently conflict with the fourteenth amendment of the federal constitution.

So that the first and principal question for decision is whether the provisions of the act before us are within the police power of the state. Professor Tucker, in 8 Cyc. 863, says:

> "Police power is the name given to the inherent sovereignty which it is the right and duty of the government or its agents to exercise whenever public policy, in a broad sense, demands, for the benefit of society at large, regulations to guard its morals, safety, health, order, or to insure in any respect such economic conditions as an advancing civilization of a highly complex character requires."

This is a comprehensive definition, and we will accept it without further detailed analysis or citation of authority. As will appear from the cases cited above we can accept as settled law statutes having for their purpose and tending to that end provision for a maximum hours law of labor for employees upon public works, a maximum hours law for women and children employed in mechanical, mercantile, or manufacturing establishments, a maximum hours law for laborers in mines or smelters, a law fixing minimum wages for employees upon public works. The latter is held in Malette vs. Spokane (Wash.) 137 Pac. 500, even where the expense is borne by private individuals, so that the only question for decision here is as to the power of the legislature to fix a minimum wage in such a case. We use the language of Mr. Malarkey:

> "The police power, which is another name for the power of government, is as old and unchanging as government itself. If its existence be destroyed government ceases. There have

been many attempts to define the police power and its scope; but because of confusing the power itself with the changing conditions calling for its application, many definitions are inexact and unsatisfactory. The courts have latterly eliminated much of this confusion by pointing out that, instead of the power being expanded to apply to new conditions, the new conditions are, as they arise, brought within the immutable and unchanging principles underlying the power. When new conditions arise which injuriously affect the health or morals or welfare of the public, we no longer say that we will expand the police power to reach and remedy the evil. Instead we say that a new evil has arisen which an old principle of govment — the police power — will correct."

If the statute tends reasonably to accomplish the purposes intended by the legislature, it should be upheld by the court. Justice Harlan, in Jacobson vs. Massachusetts, *supra,* quoting from Viemeister vs. White, 191 U. S. 223, states:

"A common belief, like common knowledge, does not require evidence to establish its existence, but may be acted upon without proof by the legislature and the courts. The fact that the belief is not universal is not controlling, for there is scarce any belief that is accepted by everyone. The possibility that the belief may be wrong, and that science may yet show it to be wrong, is not conclusive; for the legislature has the right to pass laws, which, according to the common belief of the people, are adapted to prevent the spread of contagious diseases. In a free country, where the government is by the people, through their chosen representatives, practical legislation admits of no other standard of action; for what the people believe is for the common welfare, must be accepted as tending to promote the common welfare, whether it does in fact or not. Any other basis would conflict with the spirit of the constitution, and would sanction measures opposed to a republican form of government. While we do not decide and cannot decide that vaccination is a preventative of smallpox, we take judicial notice of the fact that this is the common belief of the people of the state, and with

this fact as a common foundation we hold that the statute in question is a health law, enacted in a reasonable and proper exercise of the police power."

In speaking of the Oregon ten-hour law, Chief Justice Bean, in the case of State vs. Muller, *supra,* says:

"Such legislation must be taken as expressing the belief of the legislature, and through it of the people, that the labor of females in such establishments in excess of 10 hours in any one day is detrimental to health and injuriously affects the public welfare. The only question for the court is whether such regulation or limitation has any real or substantial relation to the object sought to be accomplished, or whether it is so 'utterly unreasonable and extravagant' as to amount to a mere arbitrary interference with the right of contract. On this question we are not without authority."

These are some of the grounds upon which maximum ten hours laws are sustained, and we have cited them here as applying with equal force to sustain the women's minimum wage law and as bringing it within the police power of the legislature. The state should be as zealous of the morals of its citizens as of their health. The "whereas clause" quoted above is a statement of the facts or conclusions constituting the necessity for the enactment, and the act proceeds to make provision to remedy these causes. "Common belief" and "common knowledge" are sufficient to make it palpable and beyond doubt that the employment of female labor as it has been conducted is highly detrimental to public morals and has a strong tendency to corrupt them. Elizabeth Beardsley Butler in her "Women of the Trades" says:

"Yet the fact remains that, for the vast bulk of salesgirls, the wages paid are not sufficient for self-support; and where girls do not have families to fall back on, some go undernourished and some sell themselves. And the store-employment which offers them this two-horned dilemma is replete with opportunities which in gradual, easy, attractive ways beckon to the second choice; a situation which few employers not only seem to tolerate, but to encourage."

The legislature of the state of Massachusetts appointed a commission known as the Commission on Minimum Wage Boards to investigate conditions. In the report of that commission in January, 1912, it said:

> "Women in general are working because of dire necessity, and in most cases the combined income of the family is not more than adequate to meet the family's cost of living. In these cases it is not optional with the woman to decline the low-paid employment. Every dollar added to the family income is needed to lighten the burden which the rest are carrying. * * * Wherever the wages of such women are less than the cost of living and the reasonable provision for maintaining the worker in health, the industry employing her is in receipt of the working energy of a human being at less than its cost, and to that extent is parasitic. The balance must be made up in some way. It is generally paid by the industry employing the father. It is sometimes paid in part by the future inefficiency of the worker herself and by her children, and perhaps in part ultimately by charity and the state. * * * If an industry is permanently dependent for its existence on underpaid labor, its value to the Commonwealth is questionable."

Many more citations might be made from the same authorities and from such students of the question as Miss Caroline Gleason, of Portland, Oregon; Louise B. More, of New York; Irene Osgood, of Milwaukee, and Robert C. Chapin, of Beloit College. With this common belief, of which Justice Harlan says "we take judicial notice," the court cannot say, beyond all question, that the act is a plain, palpable invasion of rights secured by the fundamental law, and has no real or substantial relation to the protection of public health, the public morals, or public welfare. Every argument put forward to sustain the maximum hours law or upon which it was established applies equally in favor of the constitutionality of the minimum wage law, as also within the police power of the state and as a regulation tending to guard the public morals and the public health.

Plaintiff by his complaint questions the law also as a violation of section 20, of article I, of the constitution of Oregon. As we understand this contention it is that the order applies to manufacturing establishments in Portland alone, that other persons in the same business in other localities are unaffected by it and that is discriminatory. The law by which plaintiff is bound is contained in section 1 of the act quoted above. If he will, he can comply with this provision without any action by the commission, and it applies to all the state alike. The other provisions of the act are for the purpose of ascertaining for those who are not complying with it what are reasonable hours of labor and what is a reasonable wage in the various occupations and localities in the state to govern in the application of section 1 of the act and for the purpose of fixing penalties for violations thereof. Counsel seem to consider the order of the commission as a law which the commission has been authorized to promulgate, but we do not understand this to be its province. Section 4 provides: "Said commission is hereby authorized and empowered to ascertain and declare (a) standards of hours," etc. By section 8 it is only after investigation by the commission, and when it is of opinion therefrom that any substantial number of women in any occupation are working unreasonably long hours or for inadequate wages, that it shall, by means of a conference, ascertain what is a reasonable number of hours for work and a minimum rate of wages, when it may make such an order as may be necessary to adopt such regulations as to hours of work and minimum wages; and section 1 of the act shall be enforced on that basis. There is nothing in the record suggesting that there is a substantial number of women workers in the same occupation as those included in the order complained of here working unreasonably long hours or for an inadequate wage in any locality other than in Portland. Other cases as they are discovered are to be remedied as provided therefor, but the law is state-wide and it does not give to plaintiff unequal protection of the law nor grant to others privileges denied to him; neither does it delegate legislative power to the commission. It is authorized only to ascertain facts that will determine the localities, businesses, hours and wages to which the law shall

apply. Counsel urges that the law upon this question interferes with plaintiff's freedom of contract, and refers to the language used in re Jacobs, 98 N. Y. 98, 50 Am. Rep. 636, to wit:

> "Liberty, in its broad sense as understood in this country, means the right, not only of freedom from actual servitude, imprisonment, or restraint, but the right of one to use his faculties in all lawful ways to live and work where he will,"

etc., as a change brought about by the larger freedom enjoyed in this country and guaranteed by the federal constitution and the constitutions of the various states in comparison with conditions in the earlier days of the common law, when it was found necessary to prevent extortion and oppression by royal proclamation and otherwise, and to establish reasonable compensation for labor; but he fails to take note that by reason of this larger freedom the tendency is to return to the earlier conditions of long hours and low wages, so that some classes in some employments seem to need protection from the same conditions for which royal proclamation was found necessary. The legislature has evidently concluded that in certain localities these conditions pervail in Oregon; that there are many women employed at inadequate wages — employment not secured by the agreement of the worker at satisfactory compensation, but at a wage dictated by the employer. The worker in such a case has no voice in fixing the hours or wages, or choice to refuse it, but must accept it or fare worse. As said in Wells vs. Great Northern Ry. Co., 59 Or. 165, 114 Pac. 92, 116 Pac. 1070, 34 L. R. A. (N. S.) 818, as to a baggage contract printed on the ticket of a passenger:

> "In this case neither was it the subject of agreement between the company and the carrier (passenger) but was imposed by the company as a condition of the sale of the ticket, and in signing the ticket the plaintiff was laboring under such an inequality of conditions as that he was compelled to enter into the contract, whether he would or not."

In the dissenting opinion in the Lockner case, *supra,* it is said:

> "It is plain that this statute was enacted in order to protect the physical wellbeing of those who work in bakeries and

> confectionary establishments. It may be that the statute had its origin, in part, in the belief that employers and employees in such establishments were not upon equal footing, and that the necessities of the latter often compelled them to submit to such exactions as unduly taxed their strength. Be that as it may, the statute must be taken as expressing the belief of the people of New York that, as a general rule and in the case of the average man, labor in excess of sixty hours during a week in such establishments may endanger health of those who labor."

Counsel suggest it is only quite recently that it has been seriously contended that the state may lawfully establish a minimum wage in private employments. This is undoubtedly true, and it may be that there is an occasion for it. The legislature seems to have acted on the idea that conditions have changed, or that private enterprises have become so crowded that their demands amount to unreasonable exactions from women and children; that occasion has arisen for relief through its police power; and that it has determined the public welfare demands enactment of this statute. Justice Washington, in Ogden vs. Saunders, 12 Wheat. 269, says that the question which he has been examining is involved in difficulty and doubt,

> "but if I could rest my opinion in favor of the constitutionality of the law on which the question arises on no other ground than this doubt so felt and acknowledged, that alone would in my estimation be a satisfactory vindication of it. It is but a decent respect due to the wisdom, the integrity and the patriotism of the legislative body by which any law is passed, to presume in favor of its validity, until its violation of the constitution is proved beyond all reasonable doubt."

Plaintiff further contends that the statute is void for the reason that it makes the findings of the commission on all questions of fact conclusive, and therefore takes his property without due process of law; relying on the decision of Chicago, etc., Ry. Co. vs. Minnesota, 134 U. S. 418, 10 Sup. Ct. Rep. 462, 33 L. Ed. 970, as conclusive upon that question. That case was an attack upon

the law creating a railway and warehouse commission, which was held valid by the state of Minnesota, but the United States Court reversed the judgment there for the reason that the law does not provide for a hearing by the parties affected by the order, which is not due process of law, and that no notice and opportunity to be heard is provided for, which is the principal ground upon which the State Court was reversed. Louisville & N. R. Co. vs. Garrett, 34 Sup. Ct. Rep. 48, is a case very much in point, in which was had a hearing before the Railway Commission of Kentucky, fixing freight rates between certain points within the state. The plaintiff attacked the legality of these orders because they were final and conclusive without right of appeal, and that by reason thereof plaintiff was deprived of property without due process of law. In deciding this question, the court said:

> "If (the law) require a hearing * * * and a determination by the commission whether the existing rates were excessive. But on these conditions being fulfilled, the questions of fact which might arise * * * would not become, as such, judicial questions to be re-examined by the courts. The appropriate questions for the courts would be whether the commission acted within the authority duly conferred."

Thus, in the present case, plaintiff was given the right and opportunity to be heard before the commission, as provided for by section 9 of the act. In the third subdivision of the opinion in the latter case it is held that, even though the law gives no right of appeal from the final findings of facts, a party aggrieved is not without remedy as to matters that would be the appropriate subject of judicial inquiry, namely, if the rates fixed are confiscatory; but where such a board has fully and fairly investigated and fixed what it believes to be reasonable rates, the party affected thereby has not been deprived of due process of law. San Diego Land & Town Co. v. National City, 174 U. S. 739, 19 Sup. Ct. Rep. 804, 43 L. Ed. 1154; Spring Valley Water Works vs. San Francisco, 82 Cal. 286, 22 Pac. 910, 1046; Louisville & N. R. Co. v. Garrett, *supra*. Many other cases are cited in the briefs of defendants

fully supporting their contention. Due process of law merely requires such tribunals as are proper to deal with the subject in hand. Reasonable notice and a fair opportunity to be heard before some tribunal before it decides the issues are the essentials of due process of law. It is sufficient for the protection of his constitutional rights if he has notice and is given an opportunity at some state of the proceeding to be heard. Towns v. Klamath County, 33 Or. 225, 63 Pac. 604.

We think we should be bound by the judgment of the legislature that there is a necessity for this act, that it is within the police power of the state to provide for the protection of the health, morals and welfare of women and children, and that the law should be upheld as constitutional.

The decree of the Circuit Court is affirmed. McBride, C. J., not sitting.

APPENDIX B.

THE AMERICAN MINIMUM WAGE LAWS.

CALIFORNIA.

Laws 1913. Chapter 324.

AN ACT regulating the employment of women and minors and establishing an industrial welfare commission to investigate and deal with such employment, including a minimum wage; providing for an appropriation therefor and fixing a penalty for violations of this act.

The People of the State of California do enact as follows:

SECTION 1. There is hereby established a commission to be known as the industrial welfare commission, hereinafter called the commission. Said commission shall be composed of five persons, at least one of whom shall be a woman, and all of whom shall be appointed by the governor as follows: two for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years; *provided, however,* That at the expiration of their respective terms, their successors shall be appointed to serve a full term of four years. Any vacancies shall be similarly filled for the unexpired portion of the term in which the vacancy shall occur. Three members of the commission shall constitute a quorum. A vacancy on the commission shall not impair the right of the remaining members to perform all the duties and exercise all the powers and authority of the commission.

SEC. 2. The members of said commission shall draw no salaries but all of said members shall be allowed ten dollars per diem while engaged in the performance of their official duties. The commission may employ a secretary, and such expert, clerical

and other assistants as may be necessary to carry out the purposes of this act, and shall fix the compensation of such employees, and may, also, to carry out such purposes, incur reasonable and necessary office and other expenses, including the necessary traveling expenses of the members of the commission, of its secretary, of its experts, and of its clerks and other assistants and employees. All employees of the commission shall hold office at the pleasure of the commission.

Sec. 3. (*a*) It shall be the duty of the commission to ascertain the wages paid, the hours and conditions of labor and employment in the various occupations, trades, and industries in which women and minors are employed in the State of California, and to make investigations into the comfort, health, safety and welfare of such women and minors.

(*b*) It shall be the duty of every person, firm or corporation employing labor in this state:

1. To furnish to the commission, at its request, any and all reports or information which the commission may require to carry out the purposes of this act, such reports and information to be verified by the oath of the person, or a member of the firm, or the president, secretary, or manager of the corporation furnishing the same, if and when so requested by the commission or any member thereof.

2. To allow any member of the commission, or its secretary, or any of its duly authorized experts or employees, free access to the place of business or employment of such person, firm, or corporation, for the purpose of making any investigation authorized by this act, or to make inspection of, or excerpts from, all books, reports, contracts, pay rolls, documents, or papers of such person, firm or corporation relating to the employment of labor and payment therefor by such person, firm or corporation.

3. To keep a register of the names, ages, and residence addresses of all women and minors employed.

(*c*) For the purposes of this act, a minor is defined to be a person of either sex under the age of eighteen years.

SEC. 4. The commission may specify times to hold public hearings, at which times, employers, employees, or other interested persons, may appear and give testimony as to the matter under consideration. The commission or any member thereof shall have power to subpoena witnesses and to administer oaths. All witnesses subpoenaed by the commission shall be paid the fees and mileage fixed by law in civil cases. In case of failure on the part of any person to comply with any order of the commission or any member thereof, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated before any wage board or the commission, it shall be the duty of the superior court or the judge thereof, on the application of a member of the commission, to compel obedience in the same manner, by contempt proceedings or otherwise, that such obedience would be compelled in a proceeding pending before said court. The commission shall have power to make and enforce reasonable and proper rules of practice and procedure and shall not be bound by the technical rules of evidence.

SEC. 5. If, after investigation, the commission is of the opinion that, in any occupation, trade, or industry, the wages paid to women and minors are inadequate to supply the cost of proper living, or the hours or conditions of labor are prejudicial to the health, morals or welfare of the workers, the commission may call a conference, hereinafter called "wage board", composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a representative of the commission to be designated by it, who shall act as the chairman of the wage board. The members of such wage board shall be allowed five dollars per diem and necessary traveling expenses while engaged in such conferences. The commission shall make rules and regulations governing the number and selection of the members and the mode of procedure of such wage board, and shall exercise exclusive jurisdiction over all questions arising as to the validity of the procedure and of the recommendations of such wage board. The proceedings and deliberations of such wage board shall be made a matter of record for the use of

the commission, and shall be admissible as evidence in any proceedings before the commission. On request of the commission, it shall be the duty of such wage board to report to the commission its findings, including therein:

1. An estimate of the minimum wage adequate to supply to women and minors engaged in the occupation, trade or industry in question, the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The number of hours of work per day in the occupation, trade or industry in question, consistent with the health and welfare of such women and minors.

3. The standard conditions of labor in the occupation, trade or industry in question, demanded by the health and welfare of such women and minors.

Sec. 6. (*a*) The commission shall have further power after a public hearing had upon its own motion or upon petition, to fix:

1. A minimum wage to be paid to women and minors engaged in any occupation, trade or industry in this state, which shall not be less than a wage adequate to supply to such women and minors the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The maximum hours of work consistent with the health and welfare of women and minors engaged in any occupation, trade or industry in this state; *provided,* That the hours so fixed shall not be more than the maximum now or hereafter fixed by law.

3. The standard conditions of labor demanded by the health and welfare of the women and minors engaged in any occupation, trade or industry in this state.

(*b*) Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any matters referred to in subsection (*a*) hereof, the commission shall give public notice by advertisement in at least one newspaper

published in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and by mailing a copy of said notice to the county recorder of each county in the state, of such hearing and purpose thereof, which notice shall state the time and place fixed for such hearing which shall not be earlier than fourteen days from the date of publication and mailing of such notices.

(*c*) After such public hearing, the commission may, in its discretion, make a mandatory order to be effective in sixty days from the making of such order, specifying the minimum wage for women or minors in the occupation in question, the maximum hours; *provided,* That the hours specified shall not be more than the maximum for women or minors in California, and the standard conditions of labor for said women or minors; *provided, however,* That no such order shall become effective until after April 1, 1914. Such order shall be published in at least one newspaper in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and a copy thereof be mailed to the county recorder of each county in the state, and such copy shall be recorded without charge, and to the labor commissioner who shall send by mail, so far as practicable, to each employer in the occupation in question, a copy of the order, and each employer shall be required to post a copy of such order in the building in which women or minors affected by the order are employed. Failure to mail notice to the employer shall not relieve the employer from the duty to comply with such order. Finding by the commission that there has been such publication and mailing to county recorders shall be conclusive as to service.

SEC. 7. Whenever wages, or hours, or conditions of labor have been so made mandatory in any occupation, trade or industry, the commission may at any time in its discretion, upon its own motion or upon petition of either employers or employees, after a public hearing held upon the notice prescribed for an original hearing, rescind, alter or amend any prior order. Any order rescinding a prior order shall have the same effect as herein provided for in an original order.

Sec. 8. For any occupation in which a minimum wage has been established, the commission may issue to a woman physically defective by age or otherwise, a special license authorizing the employment of such licensee, for a period of six months, for a wage less than such legal minimum wage; and the commission shall fix a special minimum wage for such person. Any such license may be renewed for like periods of six months.

Sec. 9. Upon the request of the commission, the labor commissioner shall cause such statistics and other data and information to be gathered, and investigations made, as the commission may require. The cost thereof shall be paid out of the appropriations made for the expenses of the commission.

Sec. 10. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employee because such employee has testified or is about to testify, or because such employer believes that said employee may testify in any investigation, or proceedings relative to the enforcement of this act, shall be deemed guilty of a misdemeanor.

Sec. 11. The minimum wage for women and minors fixed by said commission as in this act provided, shall be the minimum wage to be paid to such employees, and the payment to such employees of a less wage than the minimum so fixed shall be unlawful, and every employer or other person who, either individually or as an officer, agent, or employee of a corporation or other person, pays or causes to be paid to any such employee a wage less than such minimum, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment.

Sec. 12. In every prosecution for the violation of any provision of this act, the minimum wage established by the commission as herein provided shall be *prima facie* presumed to be reasonable and lawful, and to be the living wage required herein to be paid to women and minors. The findings of fact made by the commission acting within its powers shall, in the absence of

fraud, be conclusive; and the determination made by the commission shall be subject to review only in a manner and upon the grounds following: within twenty days from the date of the determination, any party aggrieved thereby may commence in the superior court in and for the city and county of San Francisco, or in and for the counties of Los Angeles or Sacramento, an action against the commission for review of such determination. In such action a complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary of the commission, or any member of the commission, shall be deemed a complete service. The commission shall serve its answer within twenty days after the service of the complaint. With its answer, the commission shall make a return to the court of all documents and papers on file in the matter, and of all testimony and evidence which may have been taken before it, and of its findings and the determination. The action may thereupon be brought on for hearing before the court upon such record by either party on ten days' notice of the other. Upon such hearing, the court may confirm or set aside such determination; but the same shall be set aside only upon the following grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the determination was procured by fraud.

Upon the setting aside of any determination the court may recommit the controversy and remand the record in the case to the commission for further proceedings. The commission, or any party aggrieved, by a decree entered upon the review of a determination, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the said superior court.

SEC. 13. Any employee receiving less than the legal minimum wage applicable to such employee shall be entitled to recover in a civil action the unpaid balance of the full amount of such minimum wage, together with costs of suit, notwithstanding any agreement to work for such lesser wage.

Sec. 14. Any person may register with the commission a complaint that the wages paid to an employee for whom a living rate has been established, are less than that rate, and the commission shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living wage.

Sec. 15. The commission shall biennially make a report to the governor and the state legislature of its investigations and proceedings.

Sec. 16. There is hereby appropriated annually out of the moneys of the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars, to be used by the commission in carrying out the provisions of this act, and the controller is hereby directed from time to time to draw his warrants on the general fund in favor of the commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

Sec. 17. The commission shall not act as a board of arbitration during a strike or lock-out.

Sec. 18. (*a*) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

(*b*) If any section, subsection, or subdivision of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Sec. 19. The provisions of this act shall apply to and include women and minors employed in any occupation, trade or industry, and whose compensation for labor is measured by time, piece or otherwise.

[Approved May 26, 1913.]

COLORADO.

Laws 1913. Chapter 110.

AN ACT providing for the determination of minimum wages for women and minors.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. There is hereby created a state wage board to be composed of three members; at least one of whom shall be a representative of labor, at least one of whom shall be a woman and one of whom shall be an employer of labor. The members of said board shall be appointed by the governor, immediately upon the taking effect of this act and the term of existence of said board shall be for two years.

SEC. 2. It shall be the duty of the wage board to inquire into the wages paid to female employes above the age of eighteen years and minor employes under eighteen years of age in any mercantile, manufacturing, laundry, hotel, restaurant, telephone or telegraph business in this state, if the board or any member of it may have reason to believe the wages paid any such employes are inadequate to supply the necessary cost of living, maintain them in health, and supply the necessary comforts of life. The wage board shall also inquire into the cost of living in the locality or localities in which the business is carried on and shall take into consideration the financial condition of the business and the probable effect thereon of any increase in the minimum wage paid in different localities, which inquiry and investigation shall be held in the locality affected. After such investigation it shall be the duty of the wage board to fix the minimum wage, whether by time rate or piece rate, suitable for the female employes over eighteen years of age in such business or in any or all of the branches thereof and also a suitable minimum wage for minors under eighteen years of age employed in the said business. When two or more members of the wage board shall agree upon a minimum wage determination, the board shall give public notice, by advertisement published once in a newspaper of general circulation in the county or counties in which any such

business so affected is located, declaring such minimum wage determination or determinations and giving notice of a public hearing thereon to be heard in the town or city nearest the place wherein the inadequate wage is found to exist; said hearing to be held not earlier than thirty days from the date of such publication. A copy of such notice shall also be mailed to the person, association or corporation engaged in the business affected. After such public hearing or after the expiration of the thirty days, provided no public hearing is demanded, the wage board shall issue an obligatory order to be effective in sixty days from the date of said order, specifying the minimum wages for women or minors or both in the occupation affected, or any branch thereof, and after such order is effective, it shall be unlawful for any employer in said occupation to employ a female over eighteen years of age or a minor under eighteen years of age for less than the rate of wages specified for such female or minor. The order shall be published once in a newspaper of general circulation in the county or counties in which any such business affected is located and a copy of the order shall be sent by mail to the person, association or corporation engaged in said business; and each such employer shall be required to post a copy of said order in a conspicuous place in each building in which women or minors affected by the order are employed.

Sec. 3. The board shall, for the purposes of this act, have the power to subpoena witnesses and compel their attendance, to administer oaths, and examine witnesses under oath, and to compel the production of papers, books, accounts, documents and records. If any person shall fail to attend as a witness when subpoenaed by the board or shall refuse to testify when ordered so to do, the board may apply to any district court or county court to compel obedience on the part of such person and such district or county court shall thereupon compel obedience by proceedings for contempt as in case of disobedience of any order of said court.

Sec. 4. Each witness who shall appear before the board by order of the board shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in the district courts of the state.

SEC. 5. A full and complete record shall be kept of all testimony taken by, and of all proceedings had before the board.

SEC. 6. Any employer, employe or other person directly affected by any order of the board fixing and determining a minimum wage in any occupation or industry, shall have the right of appeal from such order to the district court of the state on the ground that such order is unlawful or unreasonable. The evidence considered upon such appeal shall be confined to the evidence presented to the board in the case from the decision in which the appeal is taken, and the order of the board shall remain in full force and effect until such order is reversed or set aside by the district court. In all proceedings in the district court the district attorney shall appear for the board. In all proceedings in the supreme court the attorney-general shall appear for the board.

SEC. 7. Any person or partnership or corporation employing any female person above the age of eighteen years at less than the minimum wage fixed for such persons by this board, and any person, partnership or corporation employing any person of either sex under the age of eighteen years at less than the minimum wage fixed for such persons by this board, or violating any other provision of this act shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars for each offense, or by imprisonment in the county jail for not more than three months or by both fine and imprisonment.

SEC. 8. Any employer who discharges or in any other manner discriminates against any employe because such employe has testified, or is about to testify, or because such employer believes that said employe may testify, in any investigation or proceeding relative to the enforcement of this act, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars for each such misdemeanor.

SEC. 9. Justices of the Peace shall have, according to law, jurisdiction within their respective counties of all offenses arising under the provisions of this act.

Sec. 10. If any employe shall receive less than the minimum wage fixed by this board for employes in the occupation in which said person is employed, he or she shall be entitled to recover in a civil action, the full amount which would have been due said employe if the minimum wage fixed by the board had been paid, together with costs and attorney fees to be fixed by the court, notwithstanding any agreement to work for such lower wage. In such action, however, the employer shall be credited with any wages which have been paid said employe.

Sec. 11. For any occupation in which a minimum time rate only has been established, the wage board may issue to any female over the age of eighteen, physically defective, a special license authorizing the employment of such licensee for a wage less than the legal minimum wage; Provided, it is not less than the special minimum wage fixed for said person.

Sec. 12. The wage board shall, by and with the consent of the governor, appoint a secretary who may, or may not be a member of the board, and who shall give his entire time to the duties of the office, whose salary shall be twelve hundred dollars ($1,200.00) per annum, payable monthly. The members of said wage board and the secretary thereof shall be paid all necessary traveling and incidental expenses actually incurred in the performance of their official duties, not to exceed thirteen hundred dollars ($1,300.00) per annum. The board of capitol managers shall provide a suitable room for the use of said wage board and its secretary. There is hereby appropriated for the payment of the aforesaid salary and expenses, out of any moneys in the state treasury not otherwise appropriated for other ordinary expenses of the departments of the state, the sum of five thousand dollars ($5,000.00); and the auditor of the state is hereby authorized and directed to draw his warrants on said fund upon certified vouchers of the chairman of said board attested by its secretary.

Sec. 13. The board shall, within thirty days after the convening of the twentieth general assembly, make a report to the governor and to the general assembly, of its investigations and

proceedings during the period of its existence, up to and including November 30, 1914.

SEC. 14. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

[Approved May 14, 1913, at 10.15 A. M.]

MASSACHUSETTS.

Laws 1912. Chapter 706.

(As amended by Chapters 673 and 330, Laws of 1913.)

AN ACT to establish the minimum wage commission and to provide for the determination of minimum wages for women and minors.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established a commission to be known as the Minimum Wage Commission. It shall consist of three persons, one of whom may be a woman, to be appointed by the governor, with the advice and consent of the council. One of the commissioners shall be designated by the governor as chairman. The first appointments shall be made within ninety days after the passage of this act, one for a term ending October first, nineteen hundred and thirteen, one for a term ending October first, nineteen hundred and fourteen, and one for a term ending October first, nineteen hundred and fifteen; and beginning with the year nineteen hundred and thirteen, one member shall be appointed annually for the the term of three years from the first day of October and until his successor is qualified. Any vacancy that may occur shall be filled in like manner for the unexpired part of the term.

SEC. 2. Each commissioner shall be paid ten dollars for each day's service, in addition to the traveling and other expenses incurred in the performance of his official duties. The commission may appoint a secretary, who shall be the executive officer of the board and to whose appointment the rules of the civil service commission shall not apply. It shall determine his salary, subject

to the approval of the governor and council. The commission may incur other necessary expenses not exceeding the annual appropriation therefor, and shall be provided with an office in the state house or in some other suitable building in the city of Boston.

Sec. 3. It shall be the duty of the commission to inquire into the wages paid to the female employees in any occupation in the commonwealth, if the commission has reason to believe that the wages paid to a substantial number of such employees are inadequate to supply the necessary cost of living and to maintain the worker in health.

Sec. 4. If after such investigation the commission is of the opinion that in the occupation in question the wages paid to a substantial number of female employees are inadequate to supply the necessary cost of living and to maintain the worker in health, the commission shall establish a wage board consisting of not less than six representatives of employers in the occupation in question and of an equal number of persons to represent the female employees in said occupation, and of one or more disinterested persons appointed by the commission to represent the public, but the representatives of the public shall not exceed one-half of the number of representatives of either of the other parties. The commission shall designate the chairman from among the representatives of the public, and shall make rules and regulations governing the selection of members and the modes of procedure of the boards, and shall exercise exclusive jurisdiction over all questions arising with reference to the validity of the procedure and of the determinations of the boards. The members of wage boards shall be compensated at the same rate as jurors; they shall be allowed the necessary traveling and clerical expenses incurred in the performance of their duties, these payments to be made from the appropriation for the expenses of the commission.

Sec. 5. The commission may transmit to each wage board all pertinent information in its possession relative to the wages paid in the occupation in question. Each wage board shall take into consideration the needs of the employees, the financial condition

of the occupation and the probable effect thereon of any increase in the minimum wages paid, and shall endeavor to determine the minimum wage, whether by time rate or piece rate, suitable for a female employee of ordinary ability in the occupation in question, or for any or all of the branches thereof, and also suitable minimum wages for learners and apprentices and for minors below the age of eighteen years. When a majority of the members of a wage board shall agree upon minimum wage determinations, they shall report such determinations to the commission, together with the reasons therefor and the facts relating thereto.

SEC. 6. Upon receipt of a report from a wage board, the commission shall review the same, and may approve any or all of the determinations recommended, or may disapprove any or all of them, or may recommit the subject to the same or to a new wage board. If the commission approves any or all of the determinations of the wage board it shall, after not less than fourteen days' notice to employers paying a wage less than the minimum wage approved, give a public hearing to such employers, and if, after such public hearing, the commission finally approves the determination, it shall enter a decree of its findings and note thereon the names of employers, so far as they may be known to the commission, who fail or refuse to accept such minimum wage and to agree to abide by it. The commission shall thereafter publish in at least one newspaper in each county of the commonwealth a summary of its findings and of its recommendations. It shall also at such times and in such manner as it shall deem advisable publish the facts, as it may find them to be, as to the acceptance of its recommendations by the employers engaged in the industry to which any of its recommendations relate, and may publish the names of employers whom it finds to be following or refusing to follow such recommendations. An employer who files a declaration under oath in the supreme judicial court or the superior court to the effect that compliance with the recommendation of the commission would render it impossible for him to conduct his business at a reasonable profit shall be entitled to a review of said recommendation by the court under the rules of equity procedure. The burden of proving the averments of said declaration shall be

upon the complainant. If, after such review, the court shall find the averments of the declaration to be sustained, it may issue an order restraining the commission from publishing the name of the complainant as one who refuses to comply with the recommendations of the commission. But such review, or any order issued by the court thereupon, shall not be an adjudication affecting the commission as to any employer other than the complainant, and shall in no way affect the right of the commission to publish the names of those employers who do comply with its recommendations. The type in which the employers' names shall be printed shall not be smaller than that in which the news matter of the paper is printed. The publication shall be attested by the signature of at least a majority of the commission.

Sec. 7. In case a wage board shall make a recommendation of a wage determination in which a majority but less than two-thirds of the members concur, the commission, in its discretion, may report such recommendation and the pertinent facts relating thereto to the general court.

Sec. 8. Whenever a minimum wage rate has been established in any occupation, the commission may, upon petition of either employers or employees, reconvene the wage board or establish a new wage board, and any recommendation made by such board shall be dealt with in the same manner as the original recommendation of a wage board.

Sec. 9. For any occupation in which a minimum time rate only has been established, the commission may issue to any woman physically defective a special license authorizing the employment of the licensee for a wage less than the legal minimum wage; *provided,* That it is not less than the special minimum wage fixed for that person.

Sec. 10. The commission may at any time inquire into the wages paid to minors in any occupation in which the majority of employees are minors, and may, after giving public hearings, determine minimum wages suitable for such minors. When the commission has made such a determination, it may proceed in the

same manner as if the determination had been recommended to the commission by a wage board.

SEC. 11. Every employer of women and minors shall keep a register of the names, addresses and occupations of all women and minors employed by him and shall, on request of the commission or of the director of the bureau of statistics, permit the commission or any of its members or agents, or the director of the bureau of statistics or any duly accredited agent of said bureau, to inspect the said register and to examine such parts of the books and records of employers as relate to the wages paid to women and minors. The commission shall also have power to subpoena witnesses, administer oaths and take testimony. Such witnesses shall be summoned in the same manner and be paid from the treasury of the commonwealth the same fees as witnesses before the superior court.

SEC. 12. Upon request of the commission, the director of the bureau of statistics shall cause such statistics and other data to be gathered as the commission may require, and the cost thereof shall be paid out of the appropriation made for the expenses of the commission.

SEC. 13. Any employer who discharges or in any other manner discriminates against any employee because such employee has testified, or is about to testify, or because the employer believes that the employee may testify, in any investigation or proceeding relative to the enforcement of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred dollars, and not more than one thousand dollars for each offence.

SEC. 14. The commission shall from time to time determine whether employers in each occupation investigated are obeying its decrees, and shall publish in the manner provided in section six, the name of any employer whom it finds to be violating any such decree.

SEC. 15. Any newspaper refusing or neglecting to publish the findings, decrees or notices of the commission at its regular

rates for the space taken shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars for each offence.

Sec. 16. No member of the commission and no newspaper publisher, proprietor, editor or employee thereof, shall be liable to an action for damages for publishing the name of any employer in accordance with the provisions of this act, unless such publication contains some wilful misrepresentation.

Sec. 17. The commission shall, annually, on or before the first Wednesday in January, make a report to the general court of its investigations and proceedings during the preceding year.

Sec. 18. This act shall take effect on the first day of July in the year nineteen hundred and thirteen.

[Approved June 4, 1912.]

Minnesota.

Laws 1913. Chapter 547.

AN ACT to establish a minimum wage commission, and to provide for the determination and establishment of minimum wages for women and minors.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. There is hereby established a commission to be known as the minimum wage commission. It shall consist of three persons, one of whom shall be the commissioner of labor who shall be the chairman of the commission, the governor shall appoint two others, one of whom shall be an employer of women, and the third shall be a woman, who shall act as secretary of the commission. The first appointments shall be made within sixty days after the passage of this act for a term ending January 1, 1915. Beginning with the year 1915 the appointments shall be for two years from the first day of January and until their successors qualify. Any vacancy that may occur shall be filled in like manner for the unexpired portion of the term.

Sec. 2. The commission may at its discretion investigate the wages paid to women and minors in any occupations in the state.

At the request of not less than one hundred persons engaged in any occupation in which women and minors are employed, the commission shall forthwith make such investigation as herein provided.

SEC. 3. Every employer of women and minors shall keep a register of the names and addresses of, and wages paid to all women and minors employed by him, together with number of hours that they are employed per day or per week; and every such employer shall on request permit the commission or any of its members or agents to inspect such register.

SEC. 4. The commission shall specify times to hold public hearings at which employers, employes, or other interested persons may appear and give testimony as to wages, profits and other pertinent conditions of the occupation or indusrty. The commission or any member thereof shall have power to subpoena witnesses, to administer oaths, and to compel the production of books, papers, and other evidence. Witnesses subpoenaed by the commission may be allowed such compensation for travel and attendance as the commission may deem reasonable, to an amount not exceeding the usual mileage and per diem allowed by our courts in civil cases.

SEC. 5. If after investigation of any occupation the commission is of opinion that the wages paid to one-sixth or more of the women or minors employed therein are less than living wages, the commission shall forthwith proceed to establish legal minimum rates of wages for said occupation, as hereinafter described and provided.

SEC. 6. The commission shall determine the minimum wages sufficient for living wages for women and minors of ordinary ability, and also the minimum wages sufficient for living wages for learners and apprentices. The commission shall then issue an order, to be effective thirty days thereafter, making the wages thus determined the minimum wages in said occupation throughout the state, or within any area of the state if differences in the cost of living warrant this restriction. A copy of said order shall be mailed, so far as practicable, to each employer affected; and

each such employer shall be required to post such a reasonable number of copies as the commission may determine in each building or other work-place in which affected workers are employed. The original order shall be filed with the commissioner of labor.

Sec. 7. The commission may at its discretion establish in any occupation an advisory board which shall serve without pay, consisting of not less than three nor more than ten persons representing employers, and an equal number of persons representing the workers in said occupation, and of one or more disinterested persons appointed by the commission to represent the public; but the number of representatives of the public shall not exceed the number of representatives of either of the other parties. At least one-fifth of the membership of any advisory board shall be composed of women, and at least one of the representatives of the public shall be a woman. The commission shall make rules and regulations governing the selection of members and the modes of procedure of the advisory boards, and shall exercise exclusive jurisdiction over all questions arising with reference to the validity of the procedure and determination of said boards. Provided: that the selection of members representing employers and employes shall be, so far as practicable, through election by employers and employes respectively.

Sec. 8. Each advisory board shall have the same power as the commission to subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Witnesses subpoenaed by an advisory board shall be allowed the same compensation as when subpoenaed by the commission. Each advisory board shall recommend to the commission an estimate of the minimum wages, whether by time rate or by piece rate, sufficient for living wages for women and minors of ordinary ability, and an estimate of the minimum wages sufficient for living wages for learners and apprentices. A majority of the entire membership of an advisory board shall be necessary and sufficient to recommend wage estimates to the commission.

Sec. 9. Upon receipt of such estimates of wages from an advisory board, the commission shall review the same, and if it

approves them shall make them the minimum wages in said occupation, as provided in section 6. Such wages shall be regarded as determined by the commission itself and the order of the commission putting them into effect shall have the same force and authority as though the wages were determined without the assistance of an advisory board.

SEC. 10. All rates of wages ordered by the commission shall remain in force until new rates are determined and established by the commission. At the request of approximately one-fourth of the employers or employes in an occupation, the commission must reconsider the rates already established therein and may, if it sees fit, order new rates of minimum wages for said occupation. The commission may likewise reconsider old rates and order new minimum rates on its own initiative.

SEC. 11. For any occupation in which a minimum time rate of wages only has been ordered the commission may issue to a woman physically defective a special license authorizing her employment at a wage less than the general minimum ordered in said occupation: and the commission may fix a special wage for such person. Provided: that the number of such persons shall not exceed one-tenth of the whole number of workers in any establishment.

SEC. 12. Every employer in any occupation is hereby prohibited from employing any worker at less than the living wage or minimum wage as defined in this act and determined in an order of the commission: and it shall be unlawful for any employer to employ any worker at less than said living or minimum wage.

SEC. 13. It shall likewise be unlawful for any employer to discharge or in any manner discriminate against any employe because such employe has testified, or is about to testify, or because such employer believes that said employe is about to testify, in any investigation or proceeding relative to the enforcement of this act.

Sec. 14. Any worker who receives less than the minimum wage ordered by the commission shall be entitled to recover in civil action the full amount due as measured by said order of the commission, together with costs and attorney's fees to be fixed by the court, notwithstanding any agreement to work for a lesser wage.

Sec. 15. The commission shall enforce the provisions of this act, and determine all questions arising thereunder, except as otherwise herein provided.

Sec. 16. The commission shall biennially make a report of its work to the governor and the state legislature, and such reports shall be printed and distributed as in the case of other executive documents.

Sec. 17. The members of the commission shall be reimbursed for traveling and other necessary expenses incurred in the performance of their duties on the commission. The woman member shall receive a salary of eighteen hundred dollars annually for her work as secretary. All claims of the commission for expenses necessarily incurred in the administration of this act, but not exceeding the annual appropriation hereinafter provided, shall be presented to the state auditor for payment by warrant upon the state treasurer.

Sec. 18. There is appropriated out of any money in the state treasury not otherwise appropriated for the fiscal year ending July 31, 1914, the sum of five thousand dollars $(5,000.00), and for the fiscal year ending July 31, 1915, the sum of five thousand dollars ($5,000.00).

Sec. 19. Any employer violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished for each offense by a fine of not less than ten nor more than fifty dollars or by imprisonment for not less than ten nor more than sixty days.

Sec. 20. Throughout this act the following words and phrases, as used herein, shall be considered to have the following

meanings respectively, unless the context clearly indicates a different meaning in the connection used:

(1) The terms "living wage" or "living wages" shall mean wages sufficient to maintain the worker in health and supply him with the necessary comforts and conditions of reasonable life; and where the words "minimum wage" or "minimum wages" are used in this act, the same shall be deemed to have the same meaning as "living wage" or "living wages."

(2) The terms "rate" or "rates" shall mean rate or rates of wages.

(3) The term "commission" shall mean the minimum wage commission.

(4) The term "woman" shall mean a person of the female sex eighteen years of age or over.

(5) The term "minor" shall mean a male person under the age of twenty-one years, or a female person under the age of eighteen years.

(6) The terms "learner" and "apprentice" may mean either a woman or a minor.

(7) The terms "worker" or "employe" may mean a woman, a minor, a learner, or an apprentice, who is employed for wages.

(8) The term "occupation" shall mean any business, industry, trade, or branch of a trade, in which women or minors are employed.

SEC. 20. This act shall take effect and be in force from and after its passage.

[Approved April 26, 1913.]

Nebraska.

Laws 1913. Chapter 211.

AN ACT to establish a minimum wage commission and to provide for the determination of minimum wages for women and minors.

Be it enacted by the People of the State of Nebraska:

Section 1. There is hereby established a commission to be known as the Nebraska minimum wage commission. The governor is hereby made a member of said commission. Within thirty days from the passage and approval of this act he shall appoint the following additional members: deputy commissioner of labor, a member of the political science department of the University of Nebraska, one other member who shall be a citizen of the state. At least one member of said commission shall be a woman. Each of the above appointments shall be for a period of two years and may be renewed thereafter. Any vacancy occurring in the commission shall be filled by the governor. Within ten days after such appointment the commission shall meet and organize by the election of a chairman and secretary.

Sec. 2. Each commissioner shall be paid all traveling and other expenses incurred in the performance of his or her official duties. The commission may incur other necessary expenses not exceeding the biennial appropriation therefor and shall be provided with an office in the state house or at the state university.

Sec. 3. It shall be the duty of the commission to inquire into the wages paid to the female employees in any occupation in the commonwealth, if the commission has reason to believe that the wages paid to a substantial number of such employees are inadequate to supply the necessary cost of living and to maintain the worker in health.

Sec. 4. If after such investigation the commission is of the opinion that in the occupation in question the wages paid to a substantial number of female employees are inadequate to supply the necessary cost of living and to maintain the worker in health, the commission shall establish a wage board consisting of not less

than three representatives of employers in the occupation in question and of an equal number of persons to represent the female employees in said occupation, and in addition thereto the three appointed members of the commission to represent the public. The chairman of the commission shall be chairman of the wage board and shall make rules and regulations governing the procedure of the board and exercise jurisdiction over all questions arising with reference to the validity of the procedure and the determinations of the board. The secretary of the commission shall be secretary of the wage board and keep such record of hearings and arguments as the wage board shall direct. The members of wage boards shall be compensated at the same rate as jurors in district court; they shall be allowed necessary traveling and other expenses incurred in the performance of their duties, these payments to be made from the appropriation for the expenses of the commission.

SEC. 5. The commission may transmit to each wage board all pertinent information in its possession relative to the wages paid in the occupation in question. Each wage board shall take into consideration the needs of the employees, the financial condition of the occupation and the probable effect thereon of any increase in the minimum wages paid, and shall endeavor to determine the minimum wage, whether by time rate or piece rate, suitable for a female employee of ordinary ability in the occupation in question, or for any or all of the branches thereof, and also suitable minimum wages for learners and apprentices and for minors below the age of eighteen years. When two-thirds the members of the wage board shall agree upon minimum wage determinations, they shall report such determinations to the commission, together with the reasons therefor and the facts relating thereto, and also the names, so far as they can be ascertained by the board, of employers who pay less than the minimum wage so determined.

SEC. 6. Upon receipt of a report from the wage board, the commission shall review the same, and report its review to the governor. If the commission approves any or all of the determinations of the wage board it shall, after not less than thirty days' notice to employers paying a wage less than the minimum

wage approved, give a public hearing to such employers, and if, after such public hearing the commission finally approves the determination, it shall enter a decree of its findings and note thereon the names of employers, so far as they may be known to the commission, who fail or refuse to accept such minimum wage and to agree to abide by it. The commission shall, within thirty days thereafter, publish the names of all such employers in at least one newspaper in each county in the commonwealth, together with the material part of its findings, and a statement of the minimum wages paid by every such employer. Any employer upon filing a declaration under oath in the district court to the effect that compliance with such decree would endanger the prosperity of the business to which the same is made applicable, shall be entitled to a stay of execution of such decree, and a review thereof with reference to the question involved in such declaration. Such review shall be made by the court under the rules of equity procedure, and if it shall be found by the court that compliance with such decree is likely to endanger the prosperity of the business to which the same is applicable, then an order shall issue from said court revoking the same. The type in which the employers' names shall be printed shall not be smaller than that in which the news matter of the paper is printed. The publication shall be attested by the signature of at least a majority of the commission.

Sec. 7. In case a wage board shall make a recommendation of a wage determination in which a majority but less than two-thirds of the members concur, the commission, in its discretion, may report such recommendation and the pertinent facts relating thereto to the legislature.

Sec. 8. Whenever a minimum wage rate has been established in any occupation, the commission may, upon petition of either employers or employees, reconvene the wage board or establish a new wage board, and any recommendation made by such board shall be dealt with in the same manner as the original recommendation of a wage board.

Sec. 9. For any occupation in which a minimum time rate only has been established, the commission may issue to any

woman physically defective a special license authorizing the employment of the licensee for a wage less than the legal minimum wage: *Provided,* that it is not less than the special minimum wage fixed for that person.

SEC. 10. The commission may at any time inquire into the wages paid to minors in any occupation in which the majority of employees are minors, and may, after giving public hearings, determine minimum wages suitable for such minors. When the commission has made such a determination, it may proceed in the same manner as if the determination had been recommended to the commission by the wage board.

SEC. 11. Every employer of women and minors shall keep a register of the names and addresses of all women and minors employed by him, and shall on request permit the commission or any of its members or agents to inspect the register. The commission shall also have power to subpoena witnesses, administer oaths and take testimony, and to examine such parts of the books and records of employers as relate to the wages paid to women and minors. Such witnesses shall be summoned in the same manner and be paid from the treasury of the commonwealth the same fees as witnesses before the District Court.

SEC. 12. The commission may cause such statistics and other data to be gathered as it may deem desirable, and the cost thereof shall be paid out of the appropriation made for the expenses of the commission.

SEC. 13. Any employer who discharges or in any other manner discriminates against any employee because such employee has testified, or is about to testify, or because the employer believes that the employee may testify, in any investigation or proceeding relative to the enforcement of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of twenty-five dollars for each offense.

SEC. 14. The commission shall from time to time determine whether employers in each occupation investigated are obeying its decrees, and shall publish in the manner provided in section

six, the name of any employer whom it finds to be violating any such decree.

Sec. 15. Any newspaper publisher or publishers refusing or neglecting to publish the findings, decrees or notices of the commission at its regular rates for the space taken shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars for each offense.

Sec. 16. No member of the commission and no newspaper publisher, proprietor, editor or employee thereof, shall be liable to an action for damages for publishing the name of any employer in accordance with the provisions of this act, unless such publication contains some wilful misrepresentation.

Sec. 17. The commission shall make a report to the governor on or before the 1st day of November, 1914, and biennially thereafter, covering the results secured and data gathered in its work. It may also make such additional reports in the form of bulletins from time to time as in its judgment shall best serve the public interest.

[Approved, April 21, 1913.]

Oregon.

Laws 1913. Chapter 62.

AN ACT to protect the lives and health and morals of women and minor workers, and to establish an Industrial Welfare Commission and define its powers and duties, and to provide for the fixing of minimum wages and maximum hours and standard conditions of labor for such workers, and to provide penalties for violation of this act.

Whereas, The welfare of the State of Oregon requires that women and minors should be protected from conditions of labor which have a pernicious effect on their health and morals, and inadequate wages and unduly long hours and unsanitary conditions of labor have such a pernicious effect; *therefore*

Be it enacted by the People of the State of Oregon:

SECTION 1. It shall be unlawful to employ women or minors in any occupation within the State of Oregon for unreasonably long hours; and it shall be unlawful to employ women or minors in any occupation within the State of Oregon under such surroundings or conditions — sanitary or otherwise — as may be detrimental to their health or morals; and it shall be unlawful to employ women in any occupation within the State of Oregon for wages which are inadequate to supply the necessary cost of living and to maintain them in health; and it shall be unlawful to employ minors in any occupation within the State of Oregon for unreasonably low wages.

SEC. 2. There is hereby created a commission composed of three commissioners, which shall be known as the "Industrial Welfare Commission"; and the word "commission" as hereinafter used refers to and means said Industrial Welfare Commission; and the word "commissioner" as hereinafter used refers to and means a member of said Industrial Welfare Commission. Said commissioners shall be appointed by the governor. The governor shall make his first appointments hereunder within thirty days after this bill becomes a law; and of the three commissioners first appointed, one shall hold office until January 1, 1914, and another shall hold office until January 1, 1915, and the third shall hold office until January 1, 1916; and the governor shall designate the terms of each of said three first appointees. On or before the first day of January of each year, beginning with the year 1914, the governor shall appoint a commissioner to succeed the commissioner whose term expires on said first day of January; and such new appointee shall hold office for the term of three years from said first day of January. Each commissioner shall hold office until his successor is appointed and has qualified; and any vacancy that may occur in the membership of said commission shall be filled by appointment by the governor for the unexpired portion of the term in which such vacancy occurs. A majority of said commissioners shall constitute a quorum to transact business, and the act or decision of such a majority shall be deemed the act or decision of said commission; and no vacancy shall impair the right of the remaining commissioners to

exercise all the powers of said commission. The governor shall, so far as practicable, so select and appoint said commissioners — both the original appointments and all subsequent appointments— that at all times one of said commissioners shall represent the interests of the employing class and one of said commissioners shall represent the interests of the employed class and the third of said commissioners shall be one who will be fair and impartial between employers and employees and work for the best interests of the public as a whole.

Sec. 3. The first commissioners appointed under this act shall, within twenty days after their appointment, meet and organize said commission by electing one of their number as chairman thereof and by choosing a secretary of said commission; and by or before the tenth day of January of each year, beginning with the year 1914, said commissioners shall elect a chairman and choose a secretary for the ensuing year. Each such chairman and each such secretary shall hold his or her position until his or her successor is elected or chosen; but said commission may at any time remove any secretary chosen hereunder. Said secretary shall not be a commissioner; and said secretary shall perform such duties as may be prescribed and receive such salary as may be fixed by said commission. None of said commissioners shall receive any salary as such. All authorized and necessary expenses of said commission and all authorized and necessary expenditures incurred by said commission shall be audited and paid as other state expenses and expenditures are audited and paid.

Sec. 4. Said commission is hereby authorized and empowered to ascertain and declare, in the manner hereinafter provided, the following things: (a) Standards of hours of employment for women or for minors and what are unreasonably long hours for women or for minors in any occupation within the State of Oregon; (b) Standards of conditions of labor for women or for minors in any occupation within the State of Oregon and what surroundings or conditions — sanitary or otherwise — are detrimental to the health or morals of women or of minors in any such occupation; (c) Standards of minimum wages for women

in any occupation within the State of Oregon and what wages are inadequate to supply the necessary cost of living to any such women workers and to maintain them in good health; and (d) Standards of minimum wages for minors in any occupation within the State of Oregon and what wages are unreasonably low for any such minor workers.

SEC. 5. Said commission shall have full power and authority to investigate and ascertain the wages and the hours of labor and the conditions of labor of women and minors in the different occupations in which they are employed in the State of Oregon; and said commission shall have full power and authority, either through any authorized representative or any commissioner to inspect and examine any and all books and pay rolls and other records of any employer of women or minors that in any way appertain to or have a bearing upon the question of wages or hours of labor or conditions of labor of any such women workers or minor workers in any of said occupations and to require from any such employer full and true statements of the wages paid to, and the hours of labor of, and the conditions of labor of all women and minors in his employment.

SEC. 6. Every employer of women or minors shall keep a register of the names of all women and all minors employed by him, and shall, on request, permit any commissioner or any authorized representative of said commission to inspect and examine such register. The word "minor" as used in this act, refers to and means any person of either sex under the age of eighteen years; and the word "women", as used in this act, refers to and means a female person of, or over, the age of eighteen years.

SEC. 7. Said commission may hold meetings for the transaction of any of its business at such times and places as it may prescribe; and said commission may hold public hearings at such times and places as it deems fit and proper for the purpose of investigating any of the matters it is authorized to investigate by this act. At any such public hearing any person interested in the matter being investigated may appear and testify. Said com-

mission shall have power to subpoena and compel the attendance of any witness at any such public hearing or at any session of any conference called and held as hereinafter provided; and any commissioner shall have power to administer an oath to any witness who testifies at any such public hearing or at any such session of any conference. All witnesses subpoenaed by said commission shall be paid the same mileage and per diem as are allowed by law to witnesses in civil cases before the circuit court of Multnomah county.

Sec. 8. If, after investigation, said commission is of opinion that any substantial number of women workers in any occupation are working for unreasonably long hours or are working under surroundings or conditions detrimental to their health or morals or are receiving wages inadequate to supply them with the necessary cost of living and maintain them in health, said commission may call and convene a conference for the purpose and with the powers of considering and inquiring into and reporting on the subject investigated by said commission and submitted by it to such conference. Such conference shall be composed of not more than three representatives of the employers in said occupation and of an equal number of the representatives of the employees in said occupation and of not more than three disinterested persons representing the public and of one or more commissioners. Said commission shall name and appoint all the members of such conference and designate the chairman thereof. Said commission shall present to such conference all information and evidence in the possession or under the control of said commission which relates to the subject of the inquiry by such conference; and said commission shall cause to be brought before such conference any witnesses whose testimony said commission deems material to the subject of the inquiry by such conference. After completing its consideration of and inquiry into the subject submitted to it by said commission, such conference shall make and transmit to said commission a report containing the findings and recommendations of such conference on said subject. Accordingly as the subject submitted to it may require, such conference shall, in its report, make recommendations on any or all of the following questions

concerning the particular occupation under inquiry, to-wit: (a) Standards of hours of employment for women workers and what are unreasonably long hours of employment for women workers; (b) Standards of conditions of labor for women workers and what surroundings or conditions — sanitary or otherwise — are detrimental to the health or morals of women workers; (c) Standards of minimum wages for women workers and what wages are inadequate to supply the necessary cost of living to women workers and maintain them in health. In its recommendations on a question of wages such conference shall, where it appears that any substantial number of women workers in the occupation under inquiry are being paid by piece rates as distinguished from time rate recommend minimum piece rates as well as a minimum time rate and recommend such minimum piece rates as will, in its judgment, be adequate to supply the necessary cost of living to women workers of average ordinary ability and maintain them in health; and in its recommendations on a question of wages such conference shall, when it appears proper or necessary, recommend suitable minimum wages for learners and apprentices and the maximum length of time any woman worker may be kept at such wages as a learner or apprentice, which said wages shall be less than the regular minimum wages recommended for the regular women workers in the occupation under inquiry. Two-thirds of the members of any such conference shall constitute a quorum; and the decision or recommendation or report of such a two-thirds on any subject submitted shall be deemed the decision or recommendations or report of such conference.

SEC. 9. Upon receipt of any report from any conference, said commission shall consider and review the recommendations contained in said report; and said commission may approve any or all of said recommendations or disapprove any or all of said recommendations; and said commission may re-submit to the same conference, or a new conference, any subject covered by any recommendations so disapproved. If said commission approves any recommendations contained in any report from any conference, said commission shall publish notice, not less than once a

week for four successive weeks in not less than two newspapers of general circulation published in Multnomah county, that it will on a date and at a place named in said notice, hold a public meeting at which all persons in favor of or opposed to said recommendations will be given a hearing; and, after said publication of said notice and said meeting, said commission may, in its discretion, make and render such an order as may be proper or necessary to adopt such recommendations and carry the same into effect, and require all employers in the occupation affected thereby to observe and comply with such recommendations and said order. Said order shall become effective in sixty days after it is made and rendered and shall be in full force and effect on and after the sixtieth day following its making and rendition. After said order becomes effective and while it is effective, it shall be unlawful for any employer to violate or disregard any of the terms or provisions of said order or to employ any woman worker in any occupation covered by said order for longer hours or under different surroundings or conditions or at lower wages than are authorized or permitted by said order. Said commission shall, as far as is practicable, mail a copy of any such order to every employer affected thereby; and every employer affected by any such order shall keep a copy thereof posted in a conspicuous place in each room in his establishment in which women workers work. No such order of said commission shall authorize or permit the employment of any woman for more hours per day or per week than the maximum now fixed by law.

Sec. 10. For any occupation in which only a minimum time rate wage has been established, said commission may issue to a woman physically defective or crippled by age or otherwise, a special license authorizing her employment at such wage less than said minimum time rate wage as shall be fixed by said commission and stated in said license.

Sec. 11. Said commission may at any time inquire into wages or hours or conditions of labor of minors employed in any occupation in this state and determine suitable wages and hours and conditions of labor for such minors. When said commission has made such determination, it may issue an obligatory order in the

manner provided for in section 9 of this act; and, after such order is effective, it shall be unlawful for any employer in said occupation to employ a minor at less wages or for more hours or under different conditions of labor than are specified or required in or by said order; but no such order of said commission shall authorize or permit the employment of any minor for more hours per day or per week than the maximum now fixed by law or at any times or under any conditions now prohibited by law.

SEC. 12. The word "occupation" as used in this act shall be so construed as to include any and every vocation and pursuit and trade and industry. Any conference may make a separate inquiry into and report on any branch of any occupation; and said commission may make a separate order affecting any branch of any occupation. Any conference may make different recommendations and said commission may make different orders for the same occupation in different localities in the state when, in the judgment of such conference or said commission, different conditions in different localities justify such different recommendations or different orders.

SEC. 13. Said commission shall, from time to time, investigate and ascertain whether or not employers in the State of Oregon are observing and complying with its orders and take such steps as may be necessary to have prosecuted such employers as are not observing or complying with its orders.

SEC. 14. The "Commissioner of Labor Statistics and Inspector of Factories and Work Shops" and the several officers of the "Board of Inspection of Child Labor" shall, at any and all times, give to said commission any information or statistics in their respective offices that would assist said commission in carrying out this act and render such assistance to said commission as may not be inconsistent with the performance of their respective official duties.

SEC. 15. Said commission is hereby authorized and empowered to prepare and adopt and promulgate rules and regulations for the carrying into effect of the foregoing provisions of

this act, including rules and regulations for the selection of members and the mode of procedure of conferences.

Sec. 16. All questions of fact arising under the foregoing provisions of this act shall, except as otherwise herein provided, be determined by said commission, and there shall be no appeal from the decision of said commission on any such question of fact; but there shall be a right of appeal from said commission to the circuit court of the State of Oregon for Multnomah county from any ruling or holding on a question of law included in or embodied in any decision or order of said commission, and, on the same question of law, from said circuit court to the Supreme Court of the State of Oregon. In all such appeals the attorney-general shall appear for and represent said commission.

Sec. 17. Any person who violates any of the foregoing provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five ($25) dollars nor more than one hundred ($100) dollars, or by imprisonment in the county jail for not less than ten days nor more than three months, or by both such fine and imprisonment in the discretion of the court.

Sec. 18. Any employer who discharges or in any other manner discriminates against any employee because such employee has testified, or is about to testify, or because such employer believes that said employee may testify, in any investigation or proceedings under or relative to this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five ($25) dollars nor more than one hundred ($100) dollars.

Sec. 19. If any woman worker shall be paid by her employer less than the minimum wage to which she is entitled under or by virtue of an order of said commission, she may recover in a civil action the full amount of her said minimum wage less any amount actually paid to her by said employer, together with such attorney's fees as may be allowed by the court; and any agreement for her to work for less than such minimum wage shall be no defense to such action.

SEC. 20. Said commission shall, on or before the 1st day of January of the year 1915 and of each second year thereafter, make a succinct report to the governor and legislature of its work and the proceedings under this act during the preceding two years.

SEC. 21. There is hereby appropriated out of the general fund of the State of Oregon the sum of thirty-five hundred ($3,500) dollars per annum, or so much thereof as may be necessary per annum, to carry into effect the provisions of this act and to pay the expenses and expenditures authorized by or incurred under this act.

[Filed in the office of the Secretary of State, February 17, 1913.]

UTAH.

Laws 1913. Chapter 63.

AN ACT to establish a minimum wage for female workers, providing a penalty for violation of the provisions of this act and providing for its enforcement.

Be it enacted by the Legislature of the State of Utah:

SECTION 1. It shall be unlawful for any regular employer of female workers in the State of Utah to pay any female less than the wage in this section specified, to-wit:

For minors, under the age of eighteen years, not less than seventy-five cents per day; for adult learners and apprentices not less than ninety cents per day; *Provided,* that the learning period or apprenticeship shall not extend for more than one year; for adults who are experienced in the work they are employed to perform, not less than one dollar and twenty-five cents per day.

SEC. 2. All regular employers of female workers shall give a certificate of apprenticeship for time served to all apprentices.

SEC. 3. Any regular employer of female workers who shall pay to any female less than the wage specified in section 1 of this act shall be guilty of a misdemeanor.

Sec. 4. The Commissioner of Immigration, Labor and Statistics shall have general charge of the enforcement of this act, but violations of the same shall be prosecuted by all the city, State and county prosecuting officers in the same manner as in other cases of misdemeanor.

[Approved March 18, 1913.]

Washington.

Laws 1913, Chapter 174.

AN ACT to protect the lives, health, morals of women and minors, workers, establishing an industrial welfare commission for women and minors, prescribing its powers and duties, and providing for the fixing of minimum wages and the standard condition of labor for such workers, and providing penalties for violation of the same, and making an appropriation therefor.

Be it enacted by the Legislature of the State of Washington:

Section 1. The welfare of the State of Washington demands that women and minors be protected from conditions of labor which have a pernicious effect on their health and morals. The State of Washington, therefore, exercising herein its police and sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect.

Sec. 2. It shall be unlawful to employ women or minors in any industry or occupation within the State of Washington under conditions of labor detrimental to their health or morals; and it shall be unlawful to employ women workers in any industry within the State of Washington at wages which are not adequate for their maintenance.

Sec. 3. There is hereby created a commission to be known as the "Industrial Welfare Commission" for the State of Washington, to establish such standards of wages and conditions of labor for women and minors employed within the State of Washington, as shall be held hereunder to be reasonable and not detrimental

to health and morals, and which shall be sufficient for the decent maintenance of women.

SEC. 4. Said commission shall be composed of five persons, four of whom shall be appointed by the governor, as follows: The first appointments shall be made within thirty (30) days after this act takes effect; one for the term ending January 1st, 1914; one for the term ending January 1st, 1915; one for the term ending January 1st, 1916, and one for the term ending January 1st, 1917: *Provided, however,* That at the expiration of their respective terms, their successors shall be appointed by the governor to serve a full term of four years. No person shall be eligible to appointment as a commissioner hereunder who is, or shall have been at any time within five years prior to the date of such appointment, a member of any manufacturers or employers association or of any labor union. The governor shall have the power of removal for cause. Any vacancies shall be filled by the governor for the unexpired portion of the term in which the vacancy shall occur. The commissioner of labor of the State of Washington shall be *ex officio* member of the commission. Three members of the commission shall constitute a quorum at all regular meetings and public hearings.

SEC. 5. The members of said commission shall draw no salaries. The commission may employ a secretary, whose salary shall be paid out of the moneys hereinafter appropriated. All claims for expenses incurred by the commission shall, after approval by the commission, be passed to the state auditor for audit and payment.

SEC. 6. It shall be the duty of the commission to ascertain the wages and conditions of labor of women and minors in the various occupations, trades and industries in which said women and minors are employed in the State of Washington. To this end, said commission shall have full power and authority to call for statements and to examine, either through its members or other authorized representatives, all books, pay rolls or other records of all persons, firms and corporations employing females or minors as to any matters that would have a bearing upon the question of wages of labor or conditions of labor of said employes.

Sec. 7. Every employer of women and minors shall keep a record of the names of all women and minors employed by him, and shall on request permit the commission or any of its members or authorized representatives to inspect such record.

Sec. 8. For the purposes of this act a minor is defined to be a person of either sex under the age of eighteen (18) years.

Sec. 9. The commission shall specify times to hold public hearings, at which times employers, employes or other interested persons may appear and give testimony as to the matter under consideration. The commission shall have power to subpoena witnesses and to administer oaths. All witnesses subpoenaed by the commission shall be paid the same mileage and per diem allowed by law for witnesses before the superior court in civil cases.

Sec. 10. If, after investigation, the commission shall find that in any occupation, trade or industry, the wages paid to female employes are inadequate to supply them necessary cost of living and to maintain the workers in health, or that the conditions of labor are prejudicial to the health or morals of the workers, the commission is empowered to call a conference composed of an equal number of representatives of employers and employes in the occupation or industry in question, together with one or more disinterested persons representing the public; but the representatives of the public shall not exceed the number of representatives of either of the other parties; and a member of the commission shall be a member of such conference and chairman thereof. The commission shall make rules and regulations governing the selection of representatives and the mode of procedure of said conference, and shall exercise exclusive jurisdiction over all questions arising as to the validity of the procedure and of the recommendations of said conference. On request of the commission, it shall be the duty of the conference to recommend to the commission an estimate of the minimum wage adequate in the occupation or industry in question to supply the necessary cost of living, and maintain the workers in health, and to recommend standards of conditions of labor demanded for the health and morals of the

employes. The findings and recommendations of the conference shall be made a matter of record for the use of the commission.

SEC. 11. Upon the receipt of such recommendations from a conference, the commission shall review the same and may approve any or all of such recommendations, or it may disapprove any or all of them and re-commit the subject or the recommendations disapproved of to the same or a new conference. After such approval of the recommendations of a conference the commission shall issue an obligatory order to be effective in sixty (60) days from the date of said order, or if the commission shall find that unusual conditions necessitate a longer period, then it shall fix a later date, specifying the minimum wage for women in the occupation affected, and the standard conditions of labor for said women; and after such order is effective, it shall be unlawful for any employer in said occupation to employ women over eighteen (18) years of age for less than the rate of wages, or under conditions of labor prohibited for women in the said occupation. The commission shall send by mail, so far as practicable, to each employer in the occupation in question a copy of the order, and each employer shall be required to post a copy of said order in each room in which women affected by the order are employed. When such commission shall specify a minimum wage hereunder the same shall not be changed for one year from the date when such minimum wage is so fixed.

SEC. 12. Whenever wages or standard conditions of labor have been made mandatory in any occupation, upon petition of either employers or employes, the commission may at its discretion re-open the question and re-convene the former conference or call a new one, and any recommendations made by such conference shall be dealt with in the same manner as the original recommendations of a conference.

SEC. 13. For any occupation in which a minimum rate has been established, the commission through its secretary may issue to a woman physically defective or crippled by age or otherwise, or to any apprentice in such class of employment or occupation as usually requires to be learned by apprentices, a special license

authorizing the employment of such licensee for a wage less than the legal minimum wage; and the commission shall fix the minimum wage for said person, such special license to be issued only in such cases as the commission may decide the same is applied for in good faith and that such license for apprentices shall be in force for such length of time as the said commission shall decide and determine is proper.

Sec. 14. The commission may at any time inquire into wages, and conditions of labor of minors, employed in any occupation in the state and may determine wages and conditions of labor suitable for such minors. When the commission has made such determination in the cases of minors it may proceed to issue an obligatory order in the manner provided for in section 11 of this act, and after such order is effective it shall be unlawful for any employer in said occupation to employ a minor for less wages than is specified for minors in said occupation, or under conditions of labor prohibited by the commission for said minors in its order.

Sec. 15. Upon the request of the commission the commissioner of labor of the State of Washington shall furnish to the commission such statistics as the commission may require.

Sec. 16. Any employer who discharges, or in any other manner discriminates against any employe because such employe has testified or is about to testify, or because such employer believes that said employe may testify in any investigation or proceedings relative to the enforcement of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of from twenty-five dollars ($25.00) to one hundred dollars ($100.00) for each such misdemeanor.

Sec. 17. Any person employing a woman or minor for whom a minimum wage or standard conditions of labor have been specified, at less than said minimum wage, or under conditions of labor prohibited by the order of the commission; or violating any other of the provisions of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00).

SEC. 17½. Any worker or the parent or guardian of any minor to whom this act applies may complain to the commission that the wages paid to the workers are less than the minimum rate and the commission shall investigate the same and proceed under this act in behalf of the worker.

SEC. 18. If any employe shall receive less than the legal minimum wage, except as hereinbefore provided in section 13, said employe shall be entitled to recover in a civil action the full amount of the legal minimum wage as herein provided for, together with costs and attorney's fees to be fixed by the court, notwithstanding any agreement to work for such lesser wage. In such action, however, the employer shall be credited with any wages which have been paid upon account.

SEC. 19. All questions of fact arising under this act shall be determined by the commission and there shall be no appeal from its decision upon said question of fact. Either employer or employe shall have the right of appeal to the superior court on questions of law.

SEC. 20. The commission shall biennially make a report to the governor and state legislature of its investigations and proceedings.

SEC. 21. There is hereby appropriated annually out of any moneys of the state treasury not otherwise appropriated, the sum of five thousand dollars ($5,000.00), or as much thereof as may be necessary to meet the expenses of the commission.

[Approved by the Governor March 24, 1913.]

Wisconsin.

Laws 1913. Chapter 712.

AN ACT to create sections 1729s—1 to 1729s—12, inclusive, of the statutes, relating to the establishment of a living-wage for women and minors, and making an appropriation, and providing a penalty.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Section 1729s—1. The following terms as used in sections 1729s — 1 to 1729s — 12, inclusive, shall be construed as follows:

(1) The term "employer" shall mean and include every person, firm or corporation, agent, manager, representative, contractor, subcontractor or principal, or other person having control or direction of any person employed at any labor or responsible directly or indirectly for the wages of another.

(2) The term "employe" shall mean and include every person who is in receipt of or is entitled to any compensation for labor performed for any employer.

(3) The term "wage" and the term "wages" shall each mean any compensation for labor measured by time, piece or otherwise.

(4) The term "welfare" shall mean and include reasonable comfort, reasonable physical well-being, decency, and moral well-being.

(5) The term "living-wage" shall mean compensation for labor paid, whether by time, piece-work or otherwise, sufficient to enable the employe receiving it to maintain himself or herself under conditions consistent with his or her welfare.

Sec. 1729s—2. Every wage paid or agreed to be paid by any employer to any female or minor employe, except as otherwise provided in section 1729s—7, shall be not less than a living-wage.

Sec. 1729s—3. Any employer paying, offering to pay, or agreeing to pay to any female or minor employe a wage lower or

less in value than a living-wage shall be deemed guilty of a violation of sections 1729s—1 to 1729s—12, inclusive, of the statutes.

SEC. 1729s—4. It shall be the duty of the industrial commission and it shall have power, jurisdiction and authority to investigate, ascertain, determine and fix such reasonable classifications, and to issue general or special orders, determining the living wage, and to carry out the purposes of sections 1729s—1 to 1729s—12, inclusive, of the statutes. Such investigations, classifications and orders, and any action, proceeding, or suit to set aside, vacate or amend any such order of said commission, or to enjoin the enforcement thereof, shall be made pursuant to the proceeding in sections 2394—41 to 2394—70, inclusive, of the statutes, which are hereby made a part hereof, so far as not inconsistent with the provisions of sections 1729s—1 to 1729s—12, inclusive, of the statutes; and every order of the said commission shall have the same force and effect as the orders issued pursuant to said sections 2394—41 to 2394—70, inclusive, of the statutes, and the penalties therein shall apply to and be imposed for any violation of sections 1729s—1 to 1729s—12, inclusive, of the statutes.

SEC. 1729s—5. After July 1, 1913, the industrial commission may, upon its own initiative, and after July 1, 1914, the industrial commission shall, within twenty days after the filing of a verified complaint of any person setting forth that the wages paid to any female or minor employe in any occupation are not sufficient to enable such employe to maintain himself or herself under conditions consistent with his or her welfare, investigate and determine whether there is reasonable cause to believe that the wage paid to any female or minor employe is not a living wage.

SEC. 1729s—6. If, upon investigation, the commission finds that there is reasonable cause to believe that the wages paid to any female or minor employe are not a living-wage, it shall appoint an advisory wage board, selected so as fairly to represent employers, employes and the public, to assist in its investigations and determinations. The living-wage so determined upon shall be the living-wage for all female or minor employes, within the same class as established by the classification of the commission.

Sec. 1729s—7. The industrial commission shall make rules and regulations whereby any female or minor unable to earn the living-wage theretofore determined upon, shall be granted a license to work for a wage which shall be commensurate with his or her ability. Each license so granted shall establish a wage for the licensee, and no licensee shall be employed at a wage less than the rate so established.

Sec. 1729s—8. 1. All minors working in an occupation for which a living-wage has been established for minors, and who shall have no trade, shall, if employed in an occupation which is a trade industry, be indentured under the provisions of sections 2377 to 2386, inclusive, of the statutes.

2. A "trade" or a "trade industry" within the meaning of this act shall be a trade or an industry involving physical labor and characterized by mechanical skill and training such as render a period of instruction reasonably necessary. The industrial commission shall investigate, determine and declare what occupations and industries are included within the phrase a "trade" or a "trade industry."

3. All minors working in an occupation for which a living-wage has been established for minors but which is not a trade industry, who have no trade, shall be subject to the same provisions as minors between the ages of fourteen and sixteen as provided in section 1728c—1 of the statutes.

4. The industrial commission may make exceptions to the operation of subsections 1 and 2 of this section where conditions make their application unreasonable.

Sec. 1729s—9. Every employer employing three or more females or minors shall register with the industrial commission, on blanks to be supplied by the commission. In filling out the blank he shall state separately the number of females and the number of minors employed by him, their age, sex, wages and the nature of the work at which they are employed, and shall give such other information relative to the work performed and the wages received as the industrial commission requires. Each employer shall also keep a record of the names and addresses of all

women and minors employed by him, the hours of employment and wages of each, and such other records as the industrial commission requires.

SEC. 1729s—10. Any employer who discharges or threatens to discharge, or in any way discriminates, or threatens to discriminate against any employe because the employe has testified or is about to testify, or because the employer believes that the employe may testify, in any investigation or proceeding relative to the enforcement of this act, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of twenty-five dollars for each offense.

SEC. 1729s—11. Each day during which any employer shall employ a person for whom a living-wage has been fixed at a wage less than the living-wage fixed shall constitute a separate and distinct violation of sections 1729s—1 to 1729s—12, inclusive, of the statutes.

SEC. 1729s—12. Any person may register with the industrial commission a complaint that the wages paid to an employe for whom a living-wage has been established, are less than that rate, and the industrial commission shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living-wage.

[Approved July 31, 1914.]

THE BRITISH MINIMUM WAGE LAWS.

TRADE BOARDS ACT.

Chapter 22.

AN ACT to provide for the establishment of Trade Boards for certain Trades. [20th October, 1909.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Establishment of Trade Boards for Trades to which the Act applies.

1.—(1) This Act shall apply to the trades specified in the schedule to this Act and to any other trades to which it has been applied by Provisional Order of the Board of Trade made under this section.

(2) The Board of Trade may make a Provisional Order applying this Act to any specified trade to which it does not at the time apply if they are satisfied that the rate of wages prevailing in any branch of the trade is exceptionally low, as compared with that in other employments, and that the other circumstances of the trade are such as to render the application of this Act to the trade expedient.

(3) If at any time the Board of Trade consider that the conditions of employment in any trade to which this Act applies have been so altered as to render the application of this Act to the trade unnecessary, they may make a Provisional Order that this Act shall cease to apply to that trade.

(4) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by them in pursuance of this section, but no such Order shall have effect unless and until it is confirmed by Parliament.

(5) If, while a Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any

Order comprised therein, the Bill, so far as it relates to that Order, may be referred to a select committee, or, if the two Houses of Parliament think fit so to order, to a joint committee of those Houses, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills.

(6) Any Act confirming a Provisional Order made in pursuance of this section may be repealed, altered, or amended by any subsequent Provisional Order made by the Board of Trade and confirmed by Parliament.

2.—(1) The Board of Trade shall, if practicable, establish one or more Trade Boards constituted in accordance with regulations made under this Act for any trade to which this Act applies or for any branch of work in the trade.

Where a Trade Board is established under this Act for any trade or branch of work in a trade which is carried on to any substantial extent in Ireland, a separate Trade Board shall be established for that trade or branch of work in a trade in Ireland.

(2) Where a Trade Board has been established for any branch of work in a trade, any reference in this Act to the trade for which the Board is established shall be construed as a reference to the branch of work in the trade for which the Board has been established.

3. A Trade Board for any trade shall consider, as occasion requires, any matter referred to them by a Secretary of State, the Board of Trade, or any other Government department, with reference to the industrial conditions of the trade, and shall make a report upon the matter to the department by whom the question has been referred.

Minimum Rates of Wages.

4.—(1) Trade Boards shall, subject to the provisions of this section, fix minimum rates of wages for timework for their trades (in this Act referred to as minimum time-rates), and may also fix general minimum rates of wages for piecework for their trades (in this Act referred to as general minimum piece-rates), and those rates of wages (whether time- or piece-rates) may be fixed

so as to apply universally to the trade, or so as to apply to any special process in the work of the trade or to any special class of workers in the trade, or to any special area.

If a Trade Board report to the Board of Trade that it is impracticable in any case to fix a minimum time-rate in accordance with this section, the Board of Trade may so far as respects that case relieve the Trade Board of their duty.

(2) Before fixing any minimum time-rate or general minimum piece-rate, the Trade Board shall give notice of the rate which they propose to fix and consider any objections to the rate which may be lodged with them within three months.

(3) The Trade Board shall give notice of any minimum time-rate or general minimum piece-rate fixed by them.

(4) A Trade Board may, if they think it expedient, cancel or vary any minimum time-rate or general minimum piece-rate fixed under this Act, and shall reconsider any such minimum rate if the Board of Trade direct them to do so, whether an application is made for the purpose or not:

Provided that the provisions of this section as to notice shall apply where it is proposed to cancel or vary the minimum rate fixed under the foregoing provisions in the same manner as they apply where it is proposed to fix a minimum rate.

(5) A Trade Board shall on the application of any employer fix a special minimum piece-rate to apply as respects the person employed by him in cases to which a minimum time-rate but no general minimum piece-rate is applicable, and may as they think fit cancel or vary any such rate either on the application of the employer or after notice to the employer, such notice to be given not less than one month before cancellation or variation of any such rate.

5.—(1) Until a minimum time-rate or general minimum piece-rate fixed by a Trade Board has been made obligatory by order of the Board of Trade under this section, the operation of the rate shall be limited as in this Act provided.

(2) Upon the expiration of six months from the date on which a Trade Board have given notice of any minimum time-rate or general minimum piece-rate fixed by them, the Board of Trade shall make an order (in this Act referred to as an obligatory order) making that minimum rate obligatory in cases in which it is applicable on all persons employing labour and on all persons employed, unless they are of opinion that the circumstances are such as to make it premature or otherwise undesirable to make an obligatory order, and in that case they shall make an order suspending the obligatory operation of the rate (in this Act referred to as an order of suspension).

(3) Where an order of suspension has been made as respects any rate, the Trade Board may, at any time after the expiration of six months from the date of the order, apply to the Board of Trade for an obligatory order as respects that rate; and on any such application the Board of Trade shall make an obligatory order as respects that rate, unless they are of opinion that a further order of suspension is desirable, and, in that case, they shall make such a further order, and the provisions of this section which are applicable to the first order of suspension shall apply to any such further order.

An order of suspension as respects any rate shall have effect until an obligatory order is made by the Board of Trade under this section.

(4) The Board of Trade may, if they think fit, make an order to apply generally as respects any rates which may be fixed by any Trade Board constituted, or about to be constituted, for any trade to which this Act applies, and while the order is in force any minimum time-rate or general minimum piece-rate shall, after the lapse of six months from the date on which the Trade Board have given notice of the fixing of the rate, be obligatory in the same manner as if the Board of Trade had made an order making the rate obligatory under this section, unless in any particular case the Board of Trade, on the application of any person interested, direct to the contrary.

The Board of Trade may revoke any such general order at any time after giving three months' notice to the Trade Board of their intention to revoke it.

6.—(1) Where any minimum rate of wages fixed by a Trade Board has been made obligatory by order of the Board of Trade under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate clear of all deductions, and if he fails to do so shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and to a fine not exceeding five pounds for each day on which the offence is continued after conviction therefor.

(2) On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceeding.

(3) If a Trade Board are satisfied that any worker employed, or desiring to be employed, on time work in any branch of a trade to which a minimum time-rate fixed by the Trade Board is applicable is affected by any infirmity or physical injury which renders him incapable of earning that minimum time-rate, and are of opinion that the case cannot suitably be met by employing the worker on piece-work, the Trade Board may, if they think fit, grant to the worker, subject to such conditions, if any, as they prescribe, a permit exempting the employment of the worker from the provisions of this Act rendering the minimum time-rate obligatory, and, while the permit is in force, an employer shall not be liable to any penalty for paying wages to the worker at a rate less than the minimum time-rate so long as any conditions prescribed by the Trade Board on the grant of the permit are complied with.

(4) On any prosecution of an employer under this section, it shall lie on the employer to prove by the production of proper wages sheets or other records of wages or otherwise that he has not paid, or agreed to pay, wages at less than the minimum rate.

(5) Any agreement for the payment of wages in contravention of this provision shall be void.

7.—(1) Where any minimum rate of wages has been fixed by a Trade Board, but is not for the time being obligatory under an order of the Board of Trade made in pursuance of this Act, the minimum rate shall, unless the Board of Trade direct to the contrary in any case in which they have directed the Trade Board to reconsider the rate, have a limited operation as follows:

(*a*) In all cases to which the minimum rate is applicable an employer shall, in the absence of a written agreement to the contrary, pay to the person employed wages at not less than the minimum rate, and, in the absence of any such agreement, the person employed may recover wages at such a rate from the employer;

(*b*) Any employer may give written notice to the Trade Board by whom the minimum rate has been fixed that he is willing that that rate should be obligatory on him, and in that case he shall be under the same obligation to pay wages to the person employed at not less than the minimum rate, and be liable to the same fine for not doing so, as he would be if an order of the Board of Trade were in force making the rate obligatory; and

(*c*) No contract involving employment to which the minimum rate is applicable shall be given by a Government department or local authority to any employer unless he has given notice to the Trade Board in accordance with the foregoing provision:

Provided that in case of any public emergency the Board of Trade may by order, to the extent and during the period named in the order, suspend the operation of this provision as respects contracts for any such work being done or to be done on behalf of the Crown as is specified in the order.

(2) A Trade Board shall keep a register of any notices given under this section:

The register shall be open to public inspection without payment of any fee, and shall be evidence of the matters stated therein:

Any copy purporting to be certified by the secretary of the Trade Board or any officer of the Trade Board authorized for the

purpose to be a true copy of any entry in the register shall be admissible in evidence without further proof.

8. An employer shall, in cases where persons are employed on piece-work and a minimum time-rate but no general minimum piece-rate has been fixed, be deemed to pay wages at less than the minimum rate—

(*a*) in cases where a special minimum piece-rate has been fixed under the provisions of this Act for persons employed by the employer, if the rate of wages paid is less than that special minimum piece-rate; and

(*b*) in cases where a special minimum piece-rate has not been so fixed, unless he shows that the piece-rate of wages paid would yield, in the circumstances of the case, to an ordinary worker at least the same amount of money as the minimum time-rate.

9. Any shopkeeper, dealer, or trader, who by way of trade makes any arrangement express or implied with any worker in pursuance of which the worker performs any work for which a minimum rate of wages has been fixed under this Act, shall be deemed for the purposes of this Act to be the employer of the worker, and the net remuneration obtainable by the worker in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

10.—(1) Any worker or any person authorized by a worker may complain to the Trade Board that the wages paid to the worker by any employer in any case to which any minimum rate fixed by the Trade Board is applicable are at a rate less than the minimum rate, and the Trade Board shall consider the matter and may, if they think fit, take any proceedings under this Act on behalf of the worker.

(2) Before taking any proceedings under this Act on behalf of the worker, a Trade Board may, and on the first occasion on which proceedings are contemplated by the Trade Board against an employer they shall, take reasonable steps to bring the case to the notice of the employer, with a view to the settlement of the case without recourse to proceedings.

Constitution, Proceedings, &c. of Trade Boards.

11.—(1) The Board of Trade may make regulations with respect to the constitution of Trade Boards which shall consist of members representing employers and members representing workers (in this Act referred to as representative members) in equal proportions and of the appointed members. Any such regulations may be made so as to apply generally to the constitution of all Trade Boards, or specially to the constitution of any particular Trade Board or any particular class of Trade Boards.

(2) Women shall be eligible as members of Trade Boards as well as men.

(3) The representative members shall be elected or nominated, or partly elected and partly nominated as may be provided by the regulations, and in framing the regulations the representation of home workers on Trade Boards shall be provided for in all trades in which a considerable proportion of home workers are engaged.

(4) The chairman of a Trade Board shall be such one of the members as the Board of Trade may appoint, and the secretary of the Trade Board shall be appointed by the Board of Trade.

(5) The proceedings of a Trade Board shall not be invalidated by any vacancy in their number, or by any defect in the appointment, election, or nomination of any member.

(6) In order to constitute a meeting of a Trade Board, at least one-third of the whole number of the representative members and at least one appointed member must be present.

(7) The Board of Trade may make regulations with respect to the proceedings and meetings of Trade Boards, including the method of voting; but subject to the provisions of this Act and to any regulations so made Trade Boards may regulate their proceedings in such manner as they think fit.

12.—(1) A Trade Board may establish district trade committees consisting partly of members of the Trade Board and partly of persons not being members of the Trade Board but

representing employers or workers engaged in the trade and constituted in accordance with regulations made for the purpose by the Board of Trade and acting for such area as the Trade Board may determine.

(2) Provision shall be made by the regulations for at least one appointed member acting as a member of each district trade committee, and for the equal representation of local employers and local workers on the committee, and for the representation of homeworkers thereon in the case of any trade in which a considerable proportion of homeworkers are engaged in the district, and also for the appointment of a standing sub-committee to consider applications for special minimum piece-rates and complaints made to the Trade Board under this Act, and for the reference of any applications or complaints to that sub-committee.

(3) A Trade Board may refer to a district trade committee for their report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to a district trade committee any of their powers and duties under this Act, other than their power and duty to fix a minimum time-rate or general minimum piece-rate.

(4) Where a district trade committee has been established for any area, it shall be the duty of the committee to recommend to the Trade Board minimum time-rates and, so far as they think fit, general minimum piece-rates, applicable to the trade in that area, and no such minimum rate of wages fixed under this Act and no variation or cancellation of such a rate shall have effect within that area unless either the rate or the variation or cancellation thereof, as the case may be, has been recommended by the district trade committee, or an opportunity has been given to the committee to report thereon to the Trade Board, and the Trade Board have considered the report (if any) made by the committee.

13.—(1) The Board of Trade may appoint such number of persons (including women) as they think fit to be appointed members of Trade Boards.

(2) Such of the appointed members of Trade Boards shall act on each Trade Board or district trade committee as may be

directed by the Board of Trade, and, in the case of a Trade Board for a trade in which women are largely employed, at least one of the appointed members acting shall be a woman:

Provided that the number of appointed members acting on the same Trade Board, or the same district trade committee, at the same time, shall be less than half the total number of members representing employers and members representing workers.

Appointment of Officers and other Provisions for enforcing Act.

14.—(1) The Board of Trade may appoint such officers as they think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of this Act, and any officers so appointed shall act under the directions of the Board of Trade, or, if the Board of Trade so determine, under the directions of any Trade Board.

(2) The Board of Trade may also, in lieu of or in addition to appointing any officers under the provisions of this section, if they think fit, arrange with any other Government Department for assistance being given in carrying this Act into effect, either generally or in any special cases, by officers of that Department whose duties bring them into relation with any trade to which this Act applies.

15.—(1) Any officer appointed by the Board of Trade under this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have power for the performance of his duties —

(*a*) to require the production of wages sheets or other record of wages by an employer, and records of payments made to outworkers by persons giving out work, and to inspect and examine the same and copy any material part thereof;

(*b*) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work;

(*c*) at all reasonable times to enter any factory or workshop and any place used for giving out work to outworkers; and

(*d*) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to outworkers.

(2) If any person fails to furnish the means required by an officer as necessary for any entry or inspection or the exercise of his powers under this section, or if any person hinders or molests any officer in the exercise of the powers given by this section, or refuses to produce any document or give any information which any officer requires him to produce or give under the powers given by this section, that person shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds; and, if any person produces any wages sheet, or record of wages, or record of payments, or any list of outworkers to any officer acting in the exercise of the powers given by this section, knowing the same to be false, or furnishes any information to any such officer knowing the same to be false, he shall be liable, on summary conviction, to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, with or without hard labour.

16. Every officer appointed by the Board of Trade under this Act, and every officer of any Government Department for the time being assisting in carrying this Act into effect, shall be furnished by the Board or Department with a certificate of his appointment, and when acting under any or exercising any power conferred upon him by this Act shall, if so required, produce the said certificate to any person or persons affected.

17.—(1) Any officer appointed by the Board of Trade under this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have power in pursuance of any special or general directions of the Board of Trade to take proceedings under this Act, and a Trade Board may also take any such proceedings in the name of any officer appointed by the Board of Trade for the time being acting under the directions of the Trade Board in pursuance of this Act,

or in the name of their secretary or any of their officers authorised by them.

(2) Any officer appointed by the Board of Trade under this Act, or any officer of any Government Department for the time being assisting in carrying this Act into effect, and the secretary of a Trade Board, or any officer of a Trade Board authorised for the purpose, may, although not a counsel or solicitor or law agent, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act.

Supplemental.

18.—(1) The Board of Trade shall make regulations as to the notice to be given of any matter under this Act, with a view to bringing the matter of which notice is to be given so far as practicable to the knowledge of persons affected.

(2) Every occupier of a factory or workshop, or of any place used for giving out work to outworkers, shall, in manner directed by regulations under this section, fix any notices in his factory or workshop or the place used for giving out work to outworkers which he may be required to fix by the regulations, and shall give notice in any other manner, if required by the regulations, to the persons employed by him of any matter of which he is required to give notice under the regulations:

If the occupier of a factory or workshop, or of any place used for giving out work to outworkers, fails to comply with this provision, he shall be liable on summary conviction in respect of each offence to a fine not exceeding forty shillings.

19. Regulations made under this Act shall be laid as soon as possible before both Houses of Parliament, and, if either House within the next forty days after the regulations have been laid before that House resolve that all or any of the regulations ought to be annulled, the regulations shall, after the date of the resolution, be of no effect, without prejudice to the validity of anything done in the meantime thereunder or to the making of any new regulations. If one or more of a set of regulations are annulled, the Board of Trade may, if they think fit, withdraw the whole set.

20.—(1) His Majesty may, by Order in Council, direct that any powers to be exercised or duties to be performed by the Board of Trade under this Act shall be exercised or performed generally, or in any special cases or class of cases, by a Secretary of State, and, while any such Order is in force, this Act shall apply as if, so far as is necessary to give effect to the Order, a Secretary of State were substituted for the Board of Trade.

(2) Any Order in Council under this section may be varied or revoked by any subsequent Order in Council.

21. There shall be paid out of moneys provided by Parliament —

(1) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred with the authority or sanction of the Board of Trade by Trade Boards or their committees in carrying into effect this Act; and

(2) To appointed members and secretaries of Trade Boards and to officers appointed by the Board of Trade under this Act such remuneration and expenses as may be sanctioned by the Treasury; and

(3) To representative members of Trade Boards and members (other than appointed members) of district trade committees any expenses (including compensation for loss of time), up to an amount sanctioned by the Treasury, which may be incurred by them in the performance of their duties as such members; and

(4) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred by the Board of Trade in making inquiries, or procuring information, or taking any preliminary steps with respect to the application of this Act to any trade to which the Act does not apply, including the expenses of obtaining a Provisional Order, or promoting any Bill to confirm any Provisional Order made under, or in pursuance of, the provisions of this Act.

22.—(1) This Act may be cited as the Trade Boards Act, 1909.

(2) This Act shall come into operation on the first day of January nineteen hundred and ten.

COAL MINES (MINIMUM WAGE) ACT.

AN ACT to provide a Minimum Wage in the case of Workmen employed underground in Coal Mines (including Mines of Stratified Ironstone), and for purposes incidental thereto. [29th March 1912.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—(1) It shall be an implied term of every contract for the employment of a workman underground in a coal mine that the employer shall pay to that workman wages at not less than the minimum rate settled under this Act and applicable to that workman, unless it is certified in manner provided by the district rules that the workman is a person excluded under the district rules from the operation of this provision, or that the workman has forfeited the right to wages at the minimum rate by reason of his failure to comply with the conditions with respect to the regularity or efficiency of the work to be performed by workmen laid down by those rules; and any agreement for the payment of wages in so far as it is in contravention of this provision shall be void.

For the purposes of this Act, the expression "district rules" means rules made under the powers given by this Act by the joint district board.

(2) The district rules shall lay down conditions, as respects the district to which they apply, with respect to the exclusion from the right to wages at the minimum rate of aged workmen and infirm workmen (including workmen partially disabled by illness or accident), and shall lay down conditions with respect to the regularity and efficiency of the work to be performed by the workmen, and with respect to the time for which a workman is to be paid in the event of any interruption of work due to an emergency, and shall provide that a workman shall forfeit the right to wages at the minimum rate if he does not comply with conditions as to regularity and efficiency of work, except in cases

where the failure to comply with the conditions is due to some cause over which he has no control.

The district rules shall also make provision with respect to the persons by whom and the mode in which any question, whether any workman in the district is a workman to whom the minimum rate of wages is applicable, or whether a workman has complied with the conditions laid down by the rules, or whether a workman who has not complied with the conditions laid down by the rules has forfeited his right to wages at the minimum rate, is to be decided, and for a certificate being given of any such decision for the purposes of this section.

(3) The provisions of this section as to payment of wages at a minimum rate shall operate as from the date of the passing of this Act, although a minimum rate of wages may not have been settled, and any sum which would have been payable under this section to a workman on account of wages if a minimum rate had been settled may be recovered by the workman from his employer at any time after the rate is settled.

2.—(1) Minimum rates of wages and district rules for the purposes of this Act shall be settled separately for each of the districts named in the Schedule to this Act by a body of persons recognized by the Board of Trade as the joint district board for that district.

Nothing in this Act shall prejudice the operation of any agreement entered into or custom existing before the passing of this Act for the payment of wages at a rate higher than the minimum rate settled under this Act, and in settling any minimum rate of wages the joint district board shall have regard to the average daily rate of wages paid to the workmen of the class for which the minimum rate is to be settled.

(2) The Board of Trade may recognize as a joint district board for any district any body of persons, whether existing at the time of the passing of this Act or constituted for the purposes of this Act, which in the opinion of the Board of Trade fairly and adequately represents the workmen in coal mines in the district and the employers of those workmen, and the chairman of

which is an independent person appointed by agreement between the persons representing the workmen and employers respectively on the body, or in default of agreement by the Board of Trade.

The Board of Trade may, as a condition of recognizing as a joint district board for the purposes of this act any body the rules of which do not provide for securing equality of voting power between the members representing workmen and the members representing employers and for giving the chairman a casting vote in case of difference between the two classes of members, require that body to adopt any such rule as the Board of Trade may approve for the purpose, and any rule so adopted shall be deemed to be a rule governing the procedure of the body for the purposes of this Act.

(3) The joint district board of a district shall settle general minimum rates of wages and general district rules for their district (in this Act referred to as general district minimum rates and general district rules), and the general district minimum rates and general district rules shall be the rates and rules applicable throughout the whole of the district to all coal mines in the district and to all workmen or classes of workmen employed underground in those mines, other than mines to which and workmen to whom a special minimum rate or special district rules settled under the provisions of this Act is or are applicable, or mines to which and workmen to whom the joint district board declare that the general district rates and general district rules shall not be applicable pending the decision of the question whether a special district rate or special district rules ought to be settled in their case.

(4) The joint district board of any district may, if it is shown to them that any general district minimum rate or general district rules are not applicable in the case of any group or class of coal mines within the district, owing to the special circumstances of the group or class of mines, settle a special minimum rate (either higher or lower than the general district rate) or special district rules (either more or less stringent than the general district rules) for that group or class of mines, and any such special rate or special rules shall be the rate or rules applicable

to that group or class of mines instead of the general district minimum rate or general district rules.

(5) For the purpose of settling minimum rates of wage, the joint district board may subdivide their district into two parts or, if the members of the joint district board representing the workmen and the members representing the employers agree, into more than two parts, and in that case each part of the district as so subdivided shall, for the purpose of the minimum rate, be treated as the district.

(6) For the purpose of settling district rules, any joint district boards may agree that their districts shall be treated as one district, and in that case those districts shall be treated for that purpose as one combined district, with a combined district committee appointed as may be agreed between the joint district boards concerned, and the chairman of such one of the districts forming the combination as may be agreed upon between the joint district boards concerned, or, in default of agreement, determined by the Board of Trade, shall be the chairman of the combined district committee.

3.—(1) Any minimum rate of wages or district rules settled under this Act shall remain in force until varied in accordance with the provisions of this Act.

(2) The joint district board of a district shall have power to vary any minimum rate of wages or district rules for the time being in force in their district —

(*a*) At any time by agreement between the members of the joint district board representing the workmen and the members representing the employers; and

(*b*) After one year has elapsed since the rate or rules were last settled or varied, on an application made (with three months' notice given after the expiration of the year) by any workmen or employers, which appears to the joint district board to represent any considerable body of opinion amongst either the workmen or the employers concerned;

and the provisions of this Act as to the settlement of minimum rates of wages or district rules shall, so far as applicable, apply to the variation of any such rate or rules.

4.—(1) If within two weeks after the passing of this Act a joint district board has not been recognized by the Board of Trade for any district, or if at any time after the passing of this Act any occasion arises for the exercise or performance in any district of any power or duty under this Act by the joint district board, and there is no joint district board for the district, the Board of Trade may, either forthwith or after such interval as may seem to them necessary or expedient, appoint such person as they think fit to act in the place of the joint district board, and, while that appointment continues, this Act shall be construed, so far as respects that district, as if the person so appointed were substituted for the joint district board.

The Board of Trade in any such case where it appears to them that the necessity for the exercise of their powers under this provision arises from the failure of the employers to appoint members to represent employers on a board when the workmen are willing to appoint members to represent workmen, or from the failure of the workmen to appoint members to represent workmen on a board when the employers are willing to appoint members to represent employers, may, if they think fit, instead of appointing a person to act in place of the joint district board, appoint such persons as they think fit to represent the employers or the workmen, as the case may be, who have failed to appoint members to represent them; and in that case the members so appointed by the Board of Trade shall be deemed to be members of the board representing employers or workmen as the case requires.

(2) If the joint district board within three weeks after the time at which it has been recognized under this Act for any district fail to settle the first minimum rates of wages and district rules in that district, or if the joint district board, within three weeks after the expiration of a notice for an application under this Act to vary any minimum rate of wages or district rules fail to deal with the application, the chairman of the joint dis-

trict board shall settle the rates or rules or deal with the application, as the case may be, in place of the joint district board, and any minimum rate of wages or district rules settled by him shall have the same effect for the purposes of this Act as if they had been settled by the joint district board:

Provided that, if the members of the joint district board representing the workmen and the members representing the employers agree, or if the chairman of the joint district board directs, that a specified period longer than three weeks shall for the purposes of this subsection be substituted for three weeks, this subsection shall have effect as if that specified period were therein substituted for three weeks.

5.—(1) In this Act —

The expression "coal mine" includes a mine of stratified ironstone;

The expression "workman" means any person employed in a coal mine below ground other than —

(*a*) A person so employed occasionally or casually only; or

(*b*) A person so employed solely in surveying or measuring; or

(*c*) A person so employed as mechanic; or

(*d*) The manager or any under-manager of the mine; or

(*e*) Any other official of the mine whose position in the mine is recognized by the joint district board as being a position different from that of a workman.

(2) If it is thought fit by any persons when appointing a chairman for the purposes of this Act, or by the Board of Trade when so appointing a chairman, the office of chairman may be committed to three persons, and in that case those three persons acting by a majority shall be deemed to be the chairman for the purposes of this Act.

6.—(1) This Act may be cited as the Coal Mines (Minimum Wage) Act, 1912.

(2) This Act shall continue in force for three years from the date of the passing thereof and no longer, unless Parliament shall otherwise determine.

THE VICTORIAN SPECIAL BOARDS ACT.

SPECIAL BOARDS.

(1) *Appointment of Boards.*

133. (1) (Act 2386.) Every Special Board purporting to have been appointed prior to the commencement of this Act shall be deemed to have been validly appointed.

(2) Where a resolution is or has been passed by both Houses of Parliament declaring that it is expedient to appoint any Special Board to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed anywhere in Victoria (whether in a factory or not) in any process trade business or occupation or any group thereof specified in the resolution or where any Special Board has prior to the commencement of this Act been appointed for any process trade business or occupation or any group thereof the Governor in Council may if he thinks fit from time to time —

(*a*) appoint one or more Special Boards for any one of such processes trades businesses or occupations or for any branch or branches thereof or for any group or groups thereof; and

(*b*) define the area or locality (including the whole or any part or parts of Victoria)* within which the Determination of each of such Special Boards shall be operative; and extend or redefine any such area or locality; and

(*c*) as between any two or more Special Boards, adjust the powers which such Boards or any of them may lawfully exercise, and for that purpose deprive any Special Board of any of its powers and confer them upon any other Special Board.

(3) When any Special Board is deprived of any of its powers pursuant to this section any Determination thereof or of the Court of Industrial Appeals made before such deprivation under any power of which the Special Board is deprived shall continue in operation until superseded by a Determination of the Special

* Compare limitations as to certain occupations in section 9 *ante*. (In a few cases foot notes refer to sections of compiled factories law, March, 1913, not here included.)

Board upon which such power is conferred, and upon such Determination being made shall cease to have effect.

(4) Where under this section the area or locality within which the Determination of any Special Board is to be operative is extended so as to include any part or parts of Victoria outside the Metropolitan District or outside any city town or borough the Governor in Council if in any case he thinks it necessary may appoint a new Special Board to take the place of the Special Board the operation of whose Determination is so extended.

(5) Where any new Special Board is so appointed any Determination of the Board whose place it takes or of the Court of Industrial Appeals theretofore made shall within the area or locality for which the Determination was made continue in operation until superceded by a Determination of the new Special Board and upon such Determination being made shall cease to have effect.

(6) Each Special Board shall consist of not less than four nor more than ten members and a chairman.

134. (Act 2386.) The Governor in Council may by Order published in the *Government Gazette* direct that any Special Board may in any regulation Determination Order or instrument or legal proceedings be described for all purposes by some short title specified in such Order.

135. (1) (Act 2386.) The Governor in Council may by an order published in the *Government Gazette* extend the powers under this Act of any Special Board so that such Board may fix the lowest prices or rates for any articles or process trade or business or part of any such process trade or business which in the opinion of the Governor in Council are of the same or similar class or character as those for which such Board was appointed, and such Board shall as regards the articles process trade or business mentioned in the extending Order in Council have all the powers conferred on a Special Board by this Act.

(2) A copy of the *Government Gazette* containing an order so extending the powers of a Special Board shall be conclusive

evidence of the making of such order and such order shall not be liable to be challenged or disputed in any Court whatever.

136. (1) (Act 2386.) One-half of the members of a Special Board shall be appointed as representatives of employers and one-half as representatives of employes.*

(2) The representatives of the employers shall be *bona fide* and actual employers in the trade concerned, or shall have been so for six months during the three years immediately preceding their appointment and the representatives of the employes shall be actual and *bona fide* employes in such trade or shall have been so for six months during the three years immediately preceding their appointment.

(3) (*a*) Appointments as members of any Special Board shall be for three years only, but any member of a Special Board may on the expiration of his term of office be re-appointed thereto;

(*b*) The Chairman of any Special Board shall be deemed and taken to be a member thereof; and

(*c*) The Governor in Council may at any time remove any member of a Special Board.

137. (1) (Act 2386.) Before appointing the members of any Special Board the Minister may by notice published in the *Government Gazette* nominate† persons as representatives of employers and representatives of employes to be appointed as members of such Special Board.

(2) In any case where one-fifth of the employers or employes in any process trade business or occupation carry on or are engaged in such process trade business or occupation outside the Metropolitan District as defined in this Act‡ one at least of the

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* On the Special Board for Men's and Boys' clothing, the employers' representatives must consist of three representatives of makers of ready-made clothing and two of makers of order clothing.—(See section 162 *post*.)

† Although the Minister has power to nominate whomsoever he pleases within the limitations of section 136 *ante*, his invariable practice is to consult the parties interested. It is open for any person or association to forward the names of persons suitable for nomination. If such names exceed the number to be appointed, the Minister makes a selection, and nominates those selected by publishing their name in the *Government Gazette*.

‡ The Metropolitan District is defined in section 77.

persons so nominated as representatives of employers and one at least of the persons so nominated as representatives of employes shall be a person who resides and who carries on or is engaged in or has carried on or been engaged in (as the case may be) such process trade business or occupation outside the said Metropolitan District.

(3) Unless within twenty-one days after the date when such nominations are so published at least one-fifth of the employers or at least one-fifth of the adult employes respectively engaged in the process trade business or occupation subject to such Special Board give notice in writing to the Minister that they object to the appointment of the persons nominated as their representatives (as the case may be) then such persons so nominated may be appointed members of the Special Board by the Governor in Council as representatives thereon of the employers or employes (as the case may be).

(4) For the purpose of furnishing the information necessary for preparing rolls of electors (none of whom shall be under the age of eighteen years) for Special Boards in any process trade business or occupation not usually or frequently carried on in a factory as defined by this Act all employers shall send to the Chief Inspector their names and addresses and also the names and addresses of all employes not under eighteen years of age, in the form or to the effect of the Seventh Schedule and the Chief Inspector shall compile voters' rolls therefrom and each employer and each employe shall have one vote.

Any employer failing so to forward his name and address shall not be entitled to vote for representatives of employers on the Special Board to be elected.

Every employe not under eighteen years of age, who produces evidence to the satisfaction of the Chief Inspector that his ordinary occupation when at work is employment in any process trade business or occupation in regard to which the lowest prices or rates of payment are to be determined by any Special Board shall notwithstanding that his name and address have not been forwarded by his employer be enrolled as an elector of representatives of employes on such Special Board.

The Minister may decide whether any process trade business or occupation falls within this sub-section.

(5) The Minister shall decide whether persons nominated as representatives have been objected to by at least one-fifth of employers or adult employes (as the case may be) and for that purpose he shall accept the records given by the Chief Inspector in his latest annual report.

Provided that in any case where no records are given in the latest Annual Report of the Chief Inspector of Factories with respect to any persons, likely to be affected by the Determination of any such Special Board the Minister if he is satisfied that there is substantial objection to the persons nominated by him as representatives of employers or employes on such Special Board and notwithstanding that an objection signed by one-fifth of the employers or adult employes respectively engaged in the process trade business or occupation subject to such Special Board has not been lodged may decide that an election shall be held .

(6) If the Minister is satisfied that at least one-fifth of the employers or of the adult employes object within the time aforesaid to the persons nominated as their representatives or that otherwise there is substantial objection then such representatives of employers or such representatives of employes shall subject to the provisions of this Act be elected as may be prescribed by regulations* made by the Governor in Council.†

138. (Act 2386.) If the number of persons nominated as representatives of employers or employes (as the case may be) does not exceed the number of persons to be elected the persons nominated shall be deemed and taken to have been elected and shall be appointed by the Governor in Council accordingly to be members of the Special Board.

139. (Act 2386.) In the event of any vacancy occurring from any cause whatsoever in any Special Board, the Governor in Council may without previous nomination or election appoint a person as representative of employers or employes as the case

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* The regulations will be found at p. 123 *post*.

† But the members of any Special Board for the furniture trade shall not be elected.—Section 161 *post*.

may require (and the person so appointed shall be deemed and taken to have been elected by such employers or employes, as the case may be); and such person shall be so appointed for the unexpired portion of the term of office of the member who dies or resigns or is removed.*

(2) *Appointment of Chairmen.*

140. (1) (Act 2386.) The members of a Special Board shall within fourteen days after their appointment nominate in writing some person (not being one of such members) to be Chairman of such Special Board, and such person shall be appointed by the Governor in Council to such office.

(2) In the event of the Minister not receiving such nomination within fourteen days after the appointment of the said members then the Governor in Council may appoint the Chairman on the recommendation of the Minister.

(3) *Powers and Functions of Boards.*†

141. (Act 2386.) Every Special Board in accordance with the terms of its appointment —

(*a*) shall determine the lowest prices or rates of payment payable to any person or persons or classes of persons employed in the process trade business or occupation specified in such appointment. Such prices or rates of payment may be fixed at piece-work prices or at wages rates or both as the Special Board thinks fit;

(*b*) shall determine the maximum number of hours per week for which such lowest wages rates shall be payable according to the nature or conditions of the work; and the wages rates payable for any shorter time worked shall be not less than a *pro rata* amount of such wages rates and not less than such a rate as may be fixed for casual labour.

* It is the practice of the Minister to consult the interests of the persons concerned. If the Board is sitting when the vacancy occurs, its remaining members usually suggest a suitable person. It is well, therefore, for parties interested to be ready with nominations as soon as a seat on the Board becomes vacant.

† A Board may fix rates for repairing articles.—Section 152 *post*. For additional powers as to apprentices and improvers, see section 182 *post*.

In fixing such lowest prices or rates the Special Board shall take into consideration the following matters and may (if it thinks fit) fix different prices or rates accordingly —

(i) the nature kind and class of the work;

(ii) the mode and manner in which the work is to be done;

(iii) the age and sex of the workers;*

(iv) the place or locality where the work is to be done;

(v) the hour of the day or night when the work is to be done;

(vi) whether more than six consecutive days' work is to be done;

(vii) whether the work is casual as defined by the Board;

(viii) any recognized usage or custom in the manner of carrying out the work; and

(ix) any matter whatsoever which may from time to time be prescribed.

(*c*) shall fix a higher wages rate to be paid for any time in excess of the maximum number of hours per week so fixed and —

may fix the times of beginning and ending work upon each day; and

may fix a higher rate to be paid for any hour or fraction of an hour worked outside the times so fixed;† and

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*As to persons under 21 years of age, other than apprentices or improvers, see section 154 *post*.

† It will be noted that, under paragraphs (*b*) and (*c*), two different classes of overtime can be fixed. Under (*b*) and (*c*) the Boards are bound to fix the number of hours for a week's work, and the wages rate for any time in excess. Under (*c*) they may fix the times of beginning and ending work upon each day, and, having done so, must fix a higher rate for all time worked outside those hours. If these two powers were exercised independently of one another, they would clash.

It has been found necessary, when any Board wishes to exercise both powers, to adopt a form such as follows:

TIME OF BEGINNING AND ENDING WORK.

That the time of beginning and ending work shall be:

Time of Beginning.	Time of Ending.
7.30 A. M.	12 noon on the day on which the half-holiday is observed.
7.30 A. M.	6 P. M. on the other working days of the week.

may fix special rates for work to be done on a Sunday or public holiday.†

(*d*) May prescribe the form of apprenticeship indenture to be used.‡

(*e*) When in this Act or any regulations thereunder the number of the hours of work per week or the overtime rates of pay are fixed for any class or classes of workers, a Special Board when exercising any of the powers conferred by this section instead of fixing the number of working hours per week or overtime rate for the class or classes of workers to be affected by the determination of such Board fixed by the Factories and Shops Acts may fix a different number of working hours or overtime rate as the case may be.

142. (Act 2386.) Where pursuant to this Act by any Determination of a Special Board both a piece-work price and a wages rate are fixed for any work, the piece-work price shall be based on the wages rate; but no Determination shall be liable to be questioned or challenged on the ground that any piece-work price is a greater or less amount than such price would be if based upon the wages rate.

143. (Act 2386.) For wholly or partly preparing or manufacturing outside a factory articles of clothing or wearing apparel

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OVERTIME.

That the following rates shall be paid for all work done:

(*a*) Within the hours fixed in clause in excess of 48 hours in any week (*b*) Outside the hours fixed in clause	Time and a quarter.

In many trades it is found better to exercise only the power of fixing overtime rates on the week's work, without fixing the time of beginning and ending. This course has the advantage of elasticity, allowing employers and employes to arrange their hours of work to suit themselves, according to the conditions and locality of their work.

† The only days which a Wages Board has power to name as public holidays are: 1st January (New Year's Day), 26th January (Foundation Day), Good Friday, Easter Saturday, Monday, and Tuesday, 21st April (Eight Hours' Day), 3rd June (King's Birthday), first Thursday in September (Royal Agricultural Show Day, in localities named in the Royal Agricultural Show Act), 25th December (Christmas Day), and 26th December (Boxing Day).

‡An example of a simple form of indenture, which is applicable to all trades, and has been found to work advantageously to both employer and employe will be found at p. 120 *post*.

or boots or shoes a piece-work price only shall be fixed, and the Board shall on request of any occupier of a factory or shop or place fix a wages rate for any work done by persons operating at a machine used in such factory or shop or place.

144. (1) (Act 2386.) Any Special Board instead of specifying the lowest piece-work prices which may be paid for wholly or partly preparing or manufacturing any articles may determine that piece-work prices based on wages rates fixed by such Special Board may be fixed and paid therefor subject to and as provided in the next following sub-section.

(2) Any employer who pursuant to such Determination fixes and pays piece-work prices shall base such piece-work prices on the earnings of an average worker working under like conditions to those for which the piece-work prices are fixed and who is paid by time at the wages rates fixed by such Special Board. Every such employer shall if required by the Chief Inspector so to do forward a statement of such prices to the Chief Inspector.

(3) Any person who having fixed a piece-work price as in this section provided either directly or indirectly or by any pretence or device pays or offers or permits any person to offer or attempts to pay any person a piece-work price lower than the price so fixed by such first-mentioned person or who refuses or neglects to forward a statement of such prices when required to do so by the Chief Inspector shall be deemed to be guilty of a contravention of the provisions of this Part.*

(4) In proceedings against any person for a contravention of the provisions of the two last preceding sub-sections of this section the onus of proof that any piece-work price fixed or paid by such person is in accordance with the provisions of such sub-sections shall in all cases lie on the defendant.

145. (Act 2386.) When in any Determination a Special Board has fixed a wages rate only for wholly or partly preparing or manufacturing either inside or outside a factory any articles or for doing any work then it shall not be lawful for any person to pay or authorize or permit to be paid therefor any piece-work

* Penalty—section 226.

prices, and the receipt or acceptance of any piece-work prices shall not be deemed to be payment or part payment of any such wages.

146. (Act 2386.) When in any Determination a Special Board has fixed piece-work prices for wholly or partly preparing or manufacturing any articles and in the description of the work in respect of which such piece-work price is to be paid such Board enumerates several operations, and when any one or more of such operations is by the direction or with the expressed or implied consent of the occupier of the factory or his manager or foreman or agent omitted, such omission shall not affect the price to be paid in connection with the particular work, but such price shall, unless otherwise provided in such Determination, be that fixed as the price for the whole work described.

147. (Act 2386.) Notwithstanding anything contained in this Act the price or rate of payment to be fixed by any Special Board for wholly or partly preparing or manufacturing any article of furniture* shall wherever practicable be both a piece-work price and a wages rate. The piece-work price shall be based on the wages rate fixed by such Board.

148. Act 2386.) Where it appears to be just and expedient special wages rates may be fixed for aged infirm or slow workers by any Special Board.†

149. (Act 2386.) All powers of any Special Board may be exercised by a majority of the members thereof.

150. (Act 2386.) During any vacancy in a Special Board (other than in the office of Chairman) the continuing members may act as if no vacancy existed, provided no member of the Board objects.‡

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* For additional powers of Furniture Board, see sections 152 and 156 *post*.

† Very few Boards have exercised their powers under this section. Under section 202 the Chief Inspector can grant a license to an old, slow, or infirm worker to work for less than the minimum wage, but it is questionable whether in case a Board had fixed rates, the Chief Inspector could legally grant a license to work for anything less than the rate fixed by the Board.

‡ In practice the Boards do not usually decide important points during a vacancy.

151. (Act 2386.) The Chairman of any Special Board may require any person (including a member of a Special Board) giving evidence before a Board to give his evidence on oath and for such purpose shall be entitled to administer an oath accordingly to such person.

152. (Act 2386.) A Special Board shall have power to determine the lowest prices or rates to be paid to any person or persons or classes of persons employed in repairing —

(*a*) Any articles of clothing or wearing apparel or furniture in respect to which such Board may make a Determination; or

(*b*) any articles which are subject to the Determination of a Special Board for any process trade or business.

153. (Act 2386.) Where by the Determination of a Special Board the wages of an apprentice or of an improver are to vary in accordance with his experience or length of employment in his trade, then for the purpose of determining the wages he is entitled to receive, any time during which such apprentice or improver has worked at his trade shall be reckoned in his length of employment in such trade.

154. (Act 2386.) When fixing the wages rate to be paid to p rsons (other than apprentices or improvers) under twenty-one years of age for any particular class of work any Special Board may fix different rates having regard to the length of experience of such persons in such particular class.

155. (Act 2386.) No Special Board shall sit during ordinary working hours in any trade except by mutual agreement of the representatives of the employers and employes on the Board, or by the direction of the Minister.

(4) *Miscellaneous Provisions as to Special Boards.*

156. (Act 2386.) The Special Board heretofore appointed with regard to articles of furniture may also determine the lowest prices or rates which may be paid to female workers employed as upholstresses whether as carpet hands table hands or drapery hands, also to male persons employed in planning and laying car-

pets or linoleums or floor cloths or fixing draperies or making and fixing window venetian and wire blinds if a resolution shall have been passed by both Houses of Parliament declaring it is expedient for the Special Board so to do.

157. (Act 2386.) The Special Board heretofore appointed and called the Woodworkers Board may also determine the lowest prices or rates which may be paid to persons employed as stackers or sorters in connection with the loading or unloading of timber from ships, or the stacking of same in any yard or place.

158. (1) (Act 2386.) Special Boards may be appointed in order to determine the lowest prices or rates which may be paid to any person or persons or classes of persons wheresoever employed in the process trade or business of either the whole or any part of the iron working trade (for which a Special Board has not been constituted) including —

(*a*) engineering,

(*b*) boilermaking,

(*c*) blacksmithing,

(*d*) general iron work.

(2) The lowest prices or rates which may be determined under and pursuant to the Factories and Shops Acts by any Special Board appointed —

in the occupation of a fireman boiler attendant or engine-driver in connection with the use of steam-boilers or steam-engines other than steam-boilers or steam-engines connected with mines; or

under the provisions of paragraphs (*a*), (*b*), (*c*), and (*d*) of this section

for any person or persons or classes of persons shall be the lowest prices or rates to be paid to such person or persons or classes of persons wheresoever employed, notwithstanding that any other rates are determined with respect to such person or persons or classes of persons by any other Special Board.

159. (1) (Act 2386.) Any Special Board appointed —

(*a*) in the occupation of a fireman boiler attendant or engine-driver in connection with the use of steam-boilers or steam-engines other than steam-boilers or steam-engines connected with mines; or

(*b*) In the occupation of a fireman boiler attendant or engine-driver in connection with a steam-engine or steam-boiler in or about mines of every kind,

is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in the occupation of assistant engine-driver greaser or trimmer in connection with the use of steam-engines or steam-boilers.

(2) Such Special Board may exercise all the powers conferred on Special Boards under this Act so far as any person or persons or classes of persons mentioned in this section are concerned.

160. (1) (Act 2386.) Notwithstanding anything contained in this Act, the Carters Board appointed on the first day of December, one thousand nine hundred and nine, is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in or in connection with any stable (other than a livery stable) in which are stabled the horses used in his busines trade or occupation by any person subject to the determination of the said Special Board.

(2) Such Special Board may exercise all the powers conferred on Special Boards under this Act so far as any such person or persons or classes of persons mentioned in this section are concerned.

161. (Act 2386.) Notwithstanding anything contained in this Act the members of any Special Board to determine or fix the lowest price or rate which may be paid to any person for wholly or partly preparing or manufacturing any particular articles of furniture shall not be elected, and the Governor in Council may from time to time appoint such Special Board.

162. (Act 2386.) In the case of the Special Board for Men's and Boys' Clothing, the representatives of the employers shall consist of three representatives of makers of ready-made clothing and two of makers of order clothing, and the rolls for any election of

such respective representatives shall be prepared and votes given in such manner as may be prescribed.

163. (Act 2386.) Notwithstanding anything contained in this Act the Special Board called the Ironmoulders Board appointed on the seventeenth day of December one thousand nine hundred and one is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in the process trade or business of a steelmoulder and to exercise all the powers conferred on Special Boards under this Act so far as the process trade or business of a steelmoulder is concerned.

2. (1) (Act 2447.) In addition to the powers it already possesses the Special Board heretofore appointed and called the Hotel Employes Board is hereby given power to either —

(*a*) fix prices and rates to be paid to employes without taking into consideration either board or lodging; or

(*b*) fix prices and rates to be paid to employes varying according to whether full or partial board or lodging is received by the employe.

(2) When the Board makes a Determination having exercised either of these powers it shall be an offense for any employer to accept any payment from any employe under the jurisdiction of the said Board for either board or lodging.

(5) *Duration Publication and Application of Determinations of Special Boards and Court of Appeals.*

164. (Act 2386.) Any price or rate determined by any Special Board shall from a date (not being within thirty days of such Determination)* fixed by such Board, be and remain in force until

* It may be noted that it is only a *price or rate* that must stand for thirty days. Any part of a Determination which does not fix a *price or rate* apparently can be brought into force without any period of waiting. Although this section prevents a price or rate coming into force until after the lapse of thirty days, nothing in the Factories and Shops Acts requires preliminary notice. In practice, the Department endeavours to give reasonable notice in the *Government Gazette*, but there have been instances when circumstances have rendered that impossible, and the Determination has come into force immediately on being published.

amended by a Determination of such Special Board; but such Determination may at any time be amended or revoked by the Court of Industrial Appeals.

165. (1) (Act 2386.) The Determination of any Special Board shall be signed by the Chairman thereof and published in the *Government Gazette* and shall apply to the area or locality (including the whole or any part or parts of Victoria) defined by the Governor in Council as the area or locality within which the Determination of such Special Board shall be operative.*

(2) Every amendment of any Determination of any Special Board at any time made shall apply to the same part or parts of Victoria as the Determination amended.

3. (Act 2447.) For section one hundred and sixty-six of the Principal Act there shall be substituted the following section: —

"166. No determination of a Special Board shall prevent the sons or daughters of any employer being employed by him in any capacity whether he has or has not the full number of apprentices and improvers, and he shall not be bound to pay his sons and daughters the rates fixed by any Determination."

167. (Act 2386.) Where any person is employed to perform two or more classes of work to which a rate fixed by a Special Board is applicable then such person shall be paid in respect of the time occupied in each class of work at the rate fixed by the Board for such work.†

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* There is nothing in this section to indicate upon whom the duty lies of publishing a Determination in the *Government Gazette*. The amended Determination of the Hairdressers Board was sent to the Minister of Labour in December, 1911. The Minister refused to gazette it. Application was made to Mr. Justice Cussen for a mandamus. The Judge refused the application.

† This section imposes the duty upon the employer of paying an employe in accordance with the period of time occupied under each Determination, or under different parts of the same Determination. In cases where several Determinations are operative this may become a difficult matter, and necessitates the times being carefully kept and properly booked. It was the difficulty of carrying out the provisions of this section that induced the appointment of the Country Shop Assistants Board, which fixes a flat rate for all shop assistants in the districts to which the Determination extends, whether they be drapers, grocers, or fancy goods sellers, etc., as it was considered impossible to allocate the time in a country store to each of the many classes of employment.

Compare section 141 (*b*) as to payment of a *pro rata* amount for less hours worked than those fixed by the Board and section 168.

168. (Act 2386.) When any person is employed during any part of a day for an employer at work for which a Special Board has fixed a wages rate then all work whatever done by such person during such day for such employer whether inside or outside a factory or shop or place whatsoever or wheresoever shall be paid for at the same wages rate.

169. (Act 2386.) There shall be kept printed, painted or affixed in legible Roman characters, in some conspicuous place at or near the entrance of each and every factory or shop or place to which the Determination of a Special Board applies, in such a position as to be easily read by the persons employed therein, a true copy of the Determination of the Special Board as to the lowest prices or rates of payment determined by such Board.*

170. (Act 2386.) Where a piece-work price or a wages rate has been fixed by the Determination of any Special Board for wholly or partly preparing or manufacturing either inside or outside any factory any articles or for doing any work no person shall either directly or indirectly require or compel any person affected by such Determination to accept goods of any kind in lieu of money or in payment or part payment for any work done or wages earned and the receipt or acceptance of any goods shall not be deemed to be payment or part payment for any such work or of any such wages.

(6) *Validity of Determination.*

171. (1) (Act 2386.) If any person desires to dispute the validity of any Determination of any Special Board made or purporting to have been made under any of the provisions of this Act or any Act repealed thereby it shall be lawful for such person to apply to the Supreme Court upon affidavit for a rule calling upon the Chief Inspector to show cause why such Determination should not be quashed either wholly or in part for the illegality thereof; and the said Court may make the said rule absolute or discharge it with or without costs as to the Court shall seem meet.

(2) Every Determination of any Special Board shall unless and until so quashed have and be deemed and taken to have the

* For particulars of other information to be posted up in factories, see section 22; as to shops, see section 126.

like force validity and effect as if such Determination had been enacted in this Act, and shall not be in any manner liable to be challenged or disputed; but any such Determination may be altered or revoked by any subsequent Determination under this Act.*

(7) *Suspension of Determination.*

172. (1) (Act 2386.) Notwithstanding anything contained in this Act the Governor in Council may at any time for such period or periods as he thinks fit not exceeding six months in the whole by Order published in the *Government Gazette* suspend the operation of the Determination of any Special Board.† When the operation of any Determination (whether published in the *Government Gazette* or not) is so suspended it shall be the duty of such Special Board to forthwith hear receive and examine evidence as to such Determination, and thereupon such Special Board may either adhere to the said Determination or may make such amendments therein as to such Board seems proper.

(2) In the event of such Special Board making any such amendments, such Determination as so amended shall forthwith be published in the *Government Gazette* and shall for all purposes be deemed and taken to be the Determination of such Special Board from such date as may be fixed in such amended Determination, and the suspended Determination shall thereupon have no further force or effect.

(3) In the event of such Special Board notifying the Minister that such Board adheres to its Determination without amendment such suspension of the operation of such Determination shall by an Order in Council published in the *Government Gazette* be re-

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* The Court of Industrial Appeals has power to amend a Special Board's Determination. (See section 176(6).)

No change should be made in the Determination of a Board or of the Court of Industrial Appeals unless on some ground which may reasonably be considered as permanent, or at least likely to last for some considerable time. Mr. Justice Hood, *in re* the Bread Board, 13 A. L. R. 589.

† This provision became law on 27th September, 1897, by virtue of section 6 of the *Factories and Shops Act*, 1897 (No. 1518), and the power of suspension was exercised on only one occasion. On 25th November, 1897, the Governor in Council suspended the first Determination of the Boot Board, which was made on the 3rd November, 1897, and was to come into force on 29th November, 1897.

voked from such date not later than fourteen days as may be fixed in such Order.

173. (Act 2386.) Where the Minister is satisfied that an organized strike or industrial dispute is about to take place or has actually taken place in connection with any process trade business occupation or employment as to any matter which is the subject of a Determination of a Special Board or of the Court of Industrial Appeals the Governor in Council may by order published in the *Government Gazette* suspend* for any period not exceeding twelve months the whole or any part or parts of such Determination so far as it relates to the matter in reference to which such organized strike or industrial dispute is about to take place or has taken place, and such suspension may at any time by an Order published in the *Government Gazette* be removed by the Governor in Council or altered or amended in such manner as he thinks fit.

Court of Industrial Appeals.

174. (1) (Act 2386.) There shall be a Court of Industrial Appeals for deciding all appeals against a Determination of a Special Board and for dealing with any Determination of a Special Board referred to the Court by the Minister.

(2) The Court of Industrial Appeals shall consist of any one of the Judges of the Supreme Court; and the said Judges shall arrange which of them shall for the time being constitute the Court of Industrial Appeals.

(3) The Governor in Council may for the purposes of this Act appoint a Registrar of the Court of Industrial Appeals.

175. (Act 2386.) Where any Determination made by a Special Board either before or after the commencement of this Act is being dealt with by the Court, such Court shall consider whether the Determination appealed against has had or may have the effect of prejudicing the progress maintenance of or scope of employment in the trade or industry affected by any such price or rate; and if of opinion that it has had or may have such effect

* The power of suspension under section 173 has never been exercised.

the Court shall make such alterations as in its opinion may be necessary to remove or prevent such effect and at the same time to secure a living wage to the employes in such trade or industry who are affected by such Determination.

176. (1) (Act 2386.) Notwithstanding anything contained in this Act a majority of the representatives of employers or a majority of the representatives of employes on any Special Board or any employer or group of employers who employ not less than twenty-five per centum of the total number of the workers in any trade or twenty-five per centum or more of the workers in any trade, may at any time in the prescribed manner* appeal against such Determination to the Court. For the purposes of this subsection the Court shall accept the records given by the Chief Inspector in his latest annual report.†

(2) The Minister may without appeal at any time after the making of a Determination by a Special Board refer such Determination for the consideration of the Court and may also refer any appeal made as hereinbefore provided for the consideration of the Court.

(3) No appeal against or reference to the Court of a Determination which has been published in the *Government Gazette* shall have the effect of suspending or delaying the operation of such Determination.

(4) Every Determination of a Special Board referred to the Court by the Minister and such documents relating thereto as may be deemed necessary shall be forwarded by the Chief Inspector to the Registrar of the Court.

(5) Except as hereinafter provided no barrister and solicitor or agent shall be allowed to appear before or be heard by the Court. By the direction of the Court or with the consent of both parties to

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* The regulations at p. 137 *post*.

† The power given by this section is to be distingnished from the power to challenge a Determination before the Supreme Court under section 171 *post*, in which latter case it is only challengeable for illegality. While the Court is considering the Determination the Board has no powers whatever, nor has it any power to alter or amend the Determination afterwards until such time as it obtains leave to do so from the Court under subsection (9) of this section. Compare section 180.

the appeal or reference either party may at its own cost be represented by a barrister and solicitor or agent. It appeals by a minority of employers or employes as provided under sub-section (1) of this section the Court may give such directions for the representation of parties as may in the circumstances appear to be proper.

(6) The Court shall have and may exercise all or any of the powers conferred on a Special Board by this Act and may either increase or decrease any prices or rates of payment (whether piecework prices or wages rates) and shall have full power to amend the whole or any part of any Determination of a Special Board.*

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*An appeal to the Court of Industrial Appeals from the determination of a Wages Board is in the nature of a rehearing, and the Court is not confined to a consideration of the materials which were before the Board in coming to a conclusion as to what should be the minimum wage in the trade, process, or business for which the Special Board was appointed. Mr. Justice Hood, *in re* Bread Board, 13 A. L. R. 589. Mr. Justice Hodges, *in re* the Ice Board, 16 A. L. R. 46.

Appended is a list of the cases in which Determinations were referred to the Court of Industrial Appeals:

On the 14th September, 1904, an appeal was made to the Court by a group of six employers against the Determination of the Artificial Manure Board on the ground that the wage for adults, 40s. 6d., was too high, and it was suggested that 36s. be not exceeded. The Court fixed the wages of adults at 36s. per week.

On the 17th September, 1906, the Determination of the Fellmongers Board was appealed against by the representatives of employers on that Board, who stated that the hours should be 54, and not 48, and that the proportion of improvers should be increased. The Court fixed the number of hours per week at 54, but did not alter the proportion of improvers.

Again, on the 2nd October, 1906, the Court was appealed to by the employes, and, as a result, in 1909 the Court fixed the hours at 48 per week instead of 54, and some of the rates fixed at 42s. were amended to 45s.

On the 11th October, 1906, the representatives of employers on the Printers Board appealed against the Board's Determination, stating that the condition of the trade did not then warrant an increase in wages. The Court dismissed the appeal and upheld the Determination of the Board.

The Starch Board, being unable to arrive at a Determination, the matter of determining the wages of the employees in that trade was referred by the Minister of Labour to the Court of Industrial Appeals, and the Court drew up a Determination, which came into force on the 29th June, 1907.

On the 15th August, 1907, the employers' representatives on the Bread Board appealed against the increase in wages in the Determination of the Board. The Court dealt with the matter, and in its Determination, which came into force on the 15th September, 1907, the minimum wage of 54s. was altered to 50s. per week.

On the 12th November, 1909, an appeal against the Determination of the Ice Board was made by the representatives of employers on that Board, who considered that the rate for chamber hands, 1s. 3d., was too high. The Court amended the wage, and fixed it at 1s. per hour.

On the 16th November, 1909, three representatives of employers on the Hairdressers Board appealed against the Determination of their Board, on the

(7) The Court shall have and may exercise in respect of the summoning sending for and examining of witnesses, documents and books and in respect of persons summoned or giving evidence before the Court the same powers as are by the *Evidence Act* 1890 conferred on a Board or Commission appointed or issued by the Governor in Council; provided however that every summons to attend the Court may be signed by the Registrar.

(8) No evidence relating to any trade secret or to the profits or financial position of any witness or party shall be disclosed or published without the consent of the person entitled to the trade secret or non-disclosure.

(9) The Determination of the Court shall be final and without appeal and may not be reviewed or altered by a Special Board without leave of the Court, but the Court if satisfied upon affidavit that a *prima facie* case for review exists may either give such leave or may direct a rehearing before the Court, when the Court may itself alter or amend its Determination.

(10) The Determination of the Court shall be forwarded to the Minister by the Registrar.

177. (1) (Act 2386.) On any such appeal or reference to the Court, the Court may in its discretion appoint two assessors for the purpose of advising on any questions relating to the Determination.

(2) Within such time as the Court specifies, one of such assessors may be nominated by the representatives of the employers and one by the representatives of the employes on the Special Board which made the Determination.

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grounds that the minimum wages of certain male and female workers were too high, and that the proportion of improvers was too low. As a result of their representations, the proportion of improvers was amended by the Court, but the minimum wages fixed for males and females were upheld.

On the 24th July, 1912, an appeal was lodged by the representatives of employers on the Boilermakers Board against a rate of 54s. fixed for a certain class of labourers. A supplementary appeal was lodged on the 15th day of August, 1912, against a rate of 48s. fixed for another class of labourers. The Court fixed four rates for labourers at 54s., 52s., 50s., and 48s., respectively.

On the 21st December, 1912, the Minister of Labour referred the first Determination of the Commercial Clerks Board for the consideration of the Court, more particularly with regard to rates to be paid to female typewriters. No decision has yet been given.

(3) If default is made in nominating an assessor for the employers or the employes (as the case may be) the Court may appoint an assessor for the employers or the employes (as the case may be) without any nomination.

(4) Each assessor shall be entitled to an attendance fee of One pound for every day on which he attends the Court by order of the Court.

178. (1) (Act 2386.) The Minister shall cause each Determination of the Court to be published in the *Government Gazette* and such Determination shall apply to every part of Victoria to which the referred Determination applies or is expressly applied.

(2) The production before any Court Judge or Justice of a copy of the *Government Gazette* containing a Determination of the Court shall be conclusive evidence of the making and existence of such Determination and of the appointment of such Court and of all preliminary steps necessary to the making of such Determination.

(3) The provisions of this Act for or relating to the enforcement of any Determination of a Special Board shall equally apply to any Determination made by the Court, and such provisions shall with such substitutions as may be necessary be read and construed accordingly.

179. (1) (Act 2386.) A Determination of the Court of Industrial Appeals may be applied by an Order of the Governor in Council to any shire or portion of a shire.

(2) Every Order of the Governor in Council made pursuant to this section shall be published in the *Government Gazette* and any Determination thereby applied to any shire or portion of a shire shall have full force and effect within such shire or portion.

180. (Act 2386.) The Court of Industrial Appeals may revise or alter its own Determination at any time and from time to time on the application of either the representatives of employers or representatives of employes on the Special Board.

181. (Act 2386.) The Court of Industrial Appeals shall have all the powers of the Supreme Court and shall in every case be guided by the real justice of the matter without regard to legal forms and solemnities and shall direct itself by the best evidence it can procure or that is laid before it whether the same be such evidence as the law would require or admit in other cases or not; and if the Court considers any further evidence or information which would assist the Court could be obtained, the Court shall intimate in open Court what further evidence or information the Court desires.

APPRENTICES AND IMPROVERS.

(1) *Apprentices and Improvers.*

182. (1) (Act 2386.) When determining any prices or rates of payment every special Board shall also determine —

(*a*) the number or proportionate number of apprentices and improvers who may be employed within any factory or shop or place or in any process trade business or occupation;* and

(*b*) the lowest prices or rates of pay payable to apprentices or improvers when wholly or partly preparing or manufacturing any articles as to which any Special Board has made or makes a Determination or when engaged in any process trade, business or occupation as to which any Special Board has made or makes a Determination.†

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* It will be noted that a Board is given power to determine the number or proportionate number of apprentices and improvers who may be employed—

(1) In any factory or shop or place;

(2) In any process, trade, business, or occupation.

Boards have always fixed the number with reference to a factory, shop, or place, or with reference to an individual employer. It is difficult to see how a fixing of the number in a process, trade, business, or occupation could be practicably administered, seeing that there would be no means of deciding how many improvers or apprentices any particular employer would be entitled to.

†Any improver may, at the option of his employer, be put to any class of work. It is allowable for a Board to fix varying rates for improvers according to the work at which they are employed. The case is different, however, regarding apprentices. An apprentice has to be taught the whole of the trade to which he is apprenticed, and only one scale of payment can be fixed, no matter what his work.

(2) The Board when so determining may —

(*a*) take into consideration the age sex and experience of such apprentices or improvers;

(*b*) fix a scale of prices or rates payable to such apprentices or improvers respectively according to their respective age sex and experience; and

(*c*) fix a different number or proportionate number of male and female apprentices or improvers.

(*d*) prescribe the form of apprenticeship indentures to be used*

(3) In fixing the number or proportionate number of apprentices the Board shall not fix a less number or proportionate number than one apprentice for every three or fraction of three workers engaged in the particular process trade business or occupation and receiving the minimum wage or earning at piece-work not less than the minimum wage fixed for the time by such Determination.

(4) Provided that where prior to the fourth day of January one thousand nine hundred and eleven all the apprentices of any employer have been engaged so that all of their terms of apprenticeship would expire within eighteen months of one another, such employer shall be exempt from the operation of this Act and from the Determination of any Special Board so far as limitation of apprentices is concerned for a period not exceeding the term of apprenticeship in the particular trade from the said fourth day of January, one thousand nine hundred and eleven, so that it shall be lawful during such period as each apprentice of such employer completed his first, second, third, fourth, fifth, or sixth year, for the employer to take another apprentice to supply his place, so that a due and not disproportionate number of skilled workmen shall be secured: Provided that at the expiration of such period of exemption the number of apprentices is not in excess of the number

*An example of a simple form of indenture which is applicable to all trades and which experience has shown works advantageously to both employer and employe will be found at p. 120 *post*. It is desirable for the sake of uniformity and economy that apprenticeship agreements should be as far as possible identical in all trades.

such employer would be entitled to employ in proportion to the number of persons other than apprentices and improvers employed.

183. (Act 2386.) No person who has a greater number of apprentices in his employ than is prescribed in the Determination of a Special Board shall be or be deemed to be guilty of a contravention of this Act if he proves —

(*a*) that such apprentices employed by him were under indentures of apprenticeship entered into before the thirty-first day of December, one thousand nine hundred and ten; or

(*b*) that at the date of entering into the indentures of apprenticeship in respect of the last apprentice employed by him and for three months previous thereto he had in his employ such number of persons other than apprentices and improvers as at that date entitled him to the number of apprentices (including such last apprentice) in his employ.

184. (Act 2386.) Where any indentures of apprenticeship are entered into with respect to any trade to which the Determination of a Special Board applies and the wages to be paid to the apprentice are stated in such indentures then notwithstanding anything contained in this Act and notwithstanding any subsequent alteration of such Determination by such Special Board the wages to be paid to such apprentice during the currency of such indentures shall be the wages stated in the indentures.

185. (Act 2386.) (*Repealed by Section 4, Act 2447.*)*

(2) *Apprentices.*

186. (Act 2386.) Where any apprentice under the age of twenty-one years has been bound in writing by indentures of apprenticeship for a period of not less than two years, no provision in any Determination of a Special Board shall invalidate cancel or alter such deed of apprenticeship in any way whatever if such deed of apprenticeship was signed by all parties thereto before the

* Section 185 was a machinery section designed in the Consolidating Act to provide against the expiry of sections 182, 183, and 184, which were only in force till 31st December, 1912. The repeal of section 185 merely has the effect of making sections 182, 183, and 184 permanent.

notice of motion for the resolution for the appointment of such Special Board was given in either House of Parliament.

187. (1) (Act 2386.) No indenture of apprenticeship shall be deemed to be invalid under this Act by reason only that such indenture is not under seal.

(2) No indenture of apprenticeship shall be entered into after the passing of this Act in connection with any trade working under this Act except in the form* (if any) prescribed by any Special Board dealing with such trade and approved of by the Minister.

188. (1) (Act 2386.) Any failure either by an employer or an apprentice to carry out the terms of an indenture of apprenticeship shall be deemed to be a contravention of this section.†

(2) When the Minister is satisfied that there is any such failure either by an employer or apprentice he may direct that proceedings shall be instituted against the employer or apprentice as the case may be.

(3) A Court of Petty Sessions may for any such contravention —

(*a*) impose a penalty not more than Ten pounds and in addition

(*b*) order the defendant to enter into such securities as the Court may think fit to carry out the terms of the indenture;

(*c*) or impose on any employer a penalty not more than Twenty-five pounds if the Court is satisfied that the apprentice has not been taught the trade in accordance with the indenture of apprenticeship and that the employer has not given to the Court any satisfactory explanation of such failure to teach the apprentice the

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* The power of a Special Board to prescribe the form of indenture will be found in sections 141 and 182. For a convenient form of indenture, see page 120 *post*.

† Where either an employer or an apprentice considers that the other is committing a breach of any of the covenants full information should be sent to the Chief Inspector of Factories with the duplicate copy of the indenture. Inquiry will then be made, and steps taken by the officers of the Factories Department to enforce observance of the agreement.

trade. The whole or any part of such penalty may be applied for the benefit of the apprentice or otherwise as the Minister determines.

189. (Act 2386.) The Minister may grant permission in writing to any person —

(*a*) to be bound for less than three years as an apprentice to any trade subject to the Determination of a Special Board;

(*b*) who may become over twenty-one years of age during the term of his apprenticeship to complete the term of his apprenticeship;

(*c*) who is over twenty-one years of age to be bound by indentures of apprenticeship.*

190. (Act 2386.) Except in cases where the Minister has given his permission in writing as aforesaid all apprentices unless bound by indentures of apprenticeship which bind the employer to instruct such apprentice for a period of at least three years shall be deemed to be improvers for the purposes of this Act.†

(3) *Prohibition of Certain Premiums and Guarantees.*

191. (Act 2386.) Any person who either directly or indirectly or by any pretence or device requires or permits any person to pay or give or who receives from any person any consideration, premium or bonus for engaging or employing any female as an apprentice or improver in preparing or manufacturing articles of

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*Any person of working age and under twenty-one can enter into apprenticeship for a term of three years or over in any trade subject to the Determination of a Special Board, but if it is desired that the term of apprenticeship be less than three years, an application should be made to the Minister of Labour, on the form provided for that purpose, which may be obtained at the office of the Chief Inspector of Factories. That permission will be granted freely in case it is desired to enable a young worker to complete his experience in his trade. If, for instance, he had served three and a half years' apprenticeship to one employer, and desired for any reason (his first indentures having expired or been cancelled) to complete five years' experience by serving one and a half years with another employer, he would be granted permission as a matter of course. If, on the other hand, he had no experience, and wished to be bound newly to a trade for less than three years, the Minister would require strong reasons for permitting apprenticeship for a term which would be considered too short to enable him to completely master his craft. A form of application under any of the paragraphs of this section may be obtained at the office of the Chief Inspector of Factories.

† Section 5 defines "improver."

clothing or wearing apparel shall be guilty of an offence and shall be liable on conviction to a penalty not more than Ten pounds; and the person who pays or gives such consideration, premium or bonus may recover the same in any Court of competent jurisdiction from the person who received the same.

192. (Act 2386.) Any shopkeeper (other than a registered pharmaceutical chemist) who either directly or indirectly or by any pretence or device requires or permits any person to pay or give him or who receives from any person any consideration, premium or bonus for engaging or employing any person in connection with the selling of goods or in connection with the business of a hairdresser or barber as an apprentice or improver in a shop shall be guilty of an offence and shall be liable on conviction to a penalty not more than Ten pounds; and the person who pays or gives such consideration, premium or bonus may recover the same in any Court of competent jurisdiction from the person who received the same.

193. (1) (Act 2386.) Except with the consent of the Minister in writing no person shall require or permit any person to pay any sum of money or enter into or make any guarantee or promise requiring or undertaking that such person shall pay any sum of money in the event of the behaviour or attendance or obedience of any apprentice improver or employe not being at any time satisfactory to the employer.

(2) Any such guarantee or promise as aforesaid or to the like effect entered into or made after the commencement of this Act without the consent of the Minister as aforesaid shall be null and void, and any person who without such consent makes or requires such guarantee or promise shall be liable on conviction to a penalty not exceeding Ten pounds.

(3) Any sum which after the commencement of this Act is paid in pursuance of such a guarantee or promise as aforesaid or to the like effect made in contravention of this section shall be returned to the person paying same; and the person who has so paid any such sum may if the same is not returned to him on demand recover the same with costs in any Court of competent jurisdiction from the person who received the same.

(4) *Improvers.*

194. (Act 2386.) The Minister is hereby authorized to grant to any person over twenty-one years of age who has satisfied him that such person has not had the full experience prescribed for improvers by the Special Board a license to work as an improver for the period named in such license at the wage fixed by the Board for an improver of any like experience.

APPENDIX C.

(1) SELECT BIBLIOGRAPHY.

A few of the more recent and most available references on minimum wage legislation:

Aves, Ernest. Report to the secretary of state for the Home Department on the wages boards and industrial conciliation and arbitration acts of Australia and New Zealand. London: Darling & Son, Ltd. 1908. 226 pp.

An exhaustive study of the operation of the wage boards and of the industrial arbitration and conciliation acts of Australasia, including results obtained through this legislation.

Brandeis, Louis D., and Goldmark, Josephine. Appendix to briefs filed on behalf of respondents in case of Frank C. Stettler v. Edwin V. O'Hara, Bertha Moores, Amedee M. Smith, constituting the industrial welfare (minimum wage) commission of Oregon. 1914. 207 pp.

Selection of extracts from all sources favorable to the legal minimum wage. Sets forth the evil of low wages, the benefits of an adequate wage, the benefits of the legal minimum wage and the analogy with other labor legislation.

Clark, John Bates. The Minimum Wage. (Atlantic monthly, Boston, Sept. 1913. pp. 289–297.)

A theoretical discussion setting forth the probable disadvantages of the legal minimum wage, with particular emphasis upon those who might be thrown out of work by such laws.

Hammond, Matthew B. Judicial interpretation of the minimum wage in Australia. (American economic review. Princeton, N. J., 1913. v. 3, pp. 259–286.)

Analysis of the fundamental principles underlying decisions given under the laws establishing minimum wages in Australasia. Based upon studies made during a personal visit to those countries in the winter of 1911–1912.

———. The minimum wage in Great Britain and Australia. (American academy of political and social science. Annals. Baltimore, 1913. v. 48, pp. 22–36.)

Results secured under the Victorian and British wage boards laws, based upon personal investigations.

Holcombe, Arthur N. The legal minimum wage in the United States. (American economic review. Princeton, N. J., 1912. v. 2, pp. 21–37.)

Foreign systems of wage regulation, constitutional outlook in America, the economic need of minimum wage legislation, and the probable effect upon the relation between employer and employes.

Kennaday, Paul. Victorian wages boards and the New Zealand conciliation-arbitration act. (Yale review. New Haven, 1910. v. 19, pp. 32–54.)

Method of operation of the New Zealand and Victorian laws, including personal impressions of the writer based upon a visit to those countries.

Markham, Arthur B. The coal strike. (Quarterly review. London, 1912. v. 216, pp. 554–573.)

Causes of the coal strike of 1912, the passage of the coal mines minimum wage act, and the probable effect of the operation of that law.

Ryan, John Augustine. A living wage; its ethical and economic aspects. With an introduction by R. T. Ely. New York: The Macmillan Co., 1906. 346 pp.

Seager, Henry Rogers. The theory of the minimum wage. (American labor legislation review. New York, 1913. v. 3, pp. 81–91.)

A statement of the underlying theory of minimum wage legislation together with its probable results upon the organization of industry and upon other problems of labor legislation. Contains discussion by John R. Commons, Paul U. Kellogg, M. B. Hammond, George W. Anderson, Henry Abrahams, G. W. Noyes, Edward F. McSweeney, George C. Groat and Emily Green Balch.

Snowden, Philip. The living wage. With a preface by H. Spender. London: Hodder and Stoughton, 1913. 189 pp.

Discussion of the benefits of the legal minimum wage, including experience gained under the British Trade Boards Act since 1910.

Webb, Sidney. The economic theory of a legal minimum wage. (Journal of political economy. Chicago, 1912. v. 20, pp. 973–998.)

Summary of the theoretical and practical arguments in favor of the minimum wage, illustrated by experience under existing laws. A comprehensive statement in favor of minimum wage legislation.

(2) MINIMUM WAGE COMMISSIONS.

California — Industrial Welfare Commission. (Five members.) Personnel — Frank J. Murasky, Mrs. Chas. Farwell Edson, A. B. C. Dohrmann, A. Bonnheim, Walter Mathewson. Address — San Francisco.

Colorado — State Wage Board. (Three members.) Personnel — W. H. Kistler, Mrs. Myrtle Porter, Mrs. Hattie Slothower, Sec. Address — Denver.

Massachusetts — Minimum Wage Commission. (Three commissioners.) Personnel — H. La Rue Brown, Arthur N. Holcombe, Mabel Gillespie, Amy Hewes, Sec. Address — 720–721 New Albion Bldg., 1 Beacon street, Boston.

Minnesota — Minimum Wage Commission. (Three members.) Personnel — W. F. Houk, A. H. Lindeke, Eliza P. Evans, Sec. Address — St. Paul.

Nebraska — Minimum Wage Commission. (Four members.) Personnel — Not yet appointed. Address — Omaha.

Oregon — Industrial Welfare Commission. (Three members.) Personnel — Edwin V. O'Hara, Bertha Moores, Amedee M. Smith, Caroline J. Gleason, Sec. Address — 610 Commercial Block, Portland.

Utah — No board. Commissioner of Immigration, Labor and Statistics charged with enforcement of law.

Washington — Industrial Welfare Commission. (Five members.) Personnel — Edw. W. Olson, Mrs. Jackson Silbaugh, Mrs. Florence H. Swanson, Rev. M. H. Marvin, Mrs. Udall. Address — Olympia.

Wisconsin — Industrial Commission (Three commissioners.) Personnel — C. H. Crownhart, J. D. Beck, Fred M. Wilcox, P. J. Watrous, Sec. Address — Madison.